Transcript
Complaint
Complaint Withdrawn

SUPREME COURT OF THE UNITED STATES.

No. 23

THE SCHOONER PERLA, HER APPAREL AND CARGO, CLAIMED BY ALEXIS AND LOUIS J. SARPY, CO-PARTNERS AS SARPY & LANTE,

v.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

12

SUPREME COURT OF THE UNITED STATES.

No. 197

THE SCHOONER FLYING SCUD AND CARGO, B. CAYMARI, JULES ALDIGE, AND LOPEZ Y SANTOS COY, CLAIMANTS AND APPELLANTS,

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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1 United States district court, eastern district of Louisiana, in prize.

THE UNITED STATES OF AMERICA
against
THE SCH'R FLYING SCUD, HER TACKLE, &C., AND CARGO. } No. 7,678.

To the Honorable Edward H. Durell, judge of the district court of the United States for the eastern district of Louisiana:

The libel of information in prize filed herein by Rufus Waples, attorney of the United States for the eastern district of Louisiana, on behalf of said libellants and of the naval captors in interest, respectfully represents to this honorable court:

First. That the schooner or vessel called the Flying Scud, with the goods, wares, and merchandise laden therein, was captured as lawful prize on or about the 12th day of August, 1863, by the United States st'r Princess Royal, M. B. Woolsey, United States navy, commanding.

Second. That the schooner or vessel called the Flying Scud, with the goods, wares, and merchandise laden therein, were at the time of such capture, and are now, rightfully subject to such capture, and were and are lawful prize, and as such should be condemned and forfeited to the use of the libellants.

Third. That the said schooner or vessel called the Flying Scud, with the goods, wares, and merchandise laden therein, have been brought to the port of New Orleans, and are now at said port, and within the jurisdiction of this honorable court.

Fourth. That by reason of the premises the said schooner or vessel called the Flying Scud, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden therein, became and are liable to condemnation and forfeiture as lawful prize, and should be condemned and forfeited as lawful prize to the libellants.

That all and singular the premises are and were true and within the jurisdiction of this honorable court. In attestation whereof, the said attorney exhibits the said vessel's papers and the documents, &c., found on board, together with the testimony of the witnesses duly taken in preparatorio by the prize commissioners appointed by this honorable court, which are or will be duly filed in the registry of this court.

Wherefore the said attorney of the United States on behalf of the said United States prays the usual process and monition of this honorable court against the said schooner or vessel called the Flying Scud, and her tackle, apparel, and furniture, and the goods, wares, and merchandise laden therein, in this behalf to be made, and that all persons interested in the said vessel and her cargo may be cited to answer in the premises; and that all due proceedings being had therein this honorable court may be pleased to decree for the condemnation and forfeiture aforesaid, and that the said schooner Flying Scud, her tackle, apparel, and furniture, with the goods, wares, and merchandise laden therein, may be condemned as lawful prize to the use of the said United States.

Dated New Orleans, Sept. 5th, 1863.

RUFUS WAPLES,
United States District Attorney.

Let admiralty process issue as prayed for, Sept. 5th, 1863.

K. LOEW, *D'y Clk.*

2 Filed September 5th, 1863.

REC. 199—1

3 *Admiralty warrant, issued 5th Sept.*, 1863.

The President of the United States of America to the marshal of the eastern district of Louisiana or to his lawful deputy, greeting:

You are hereby commanded forthwith to seize and into your possession take the schooner Flying Scud, her tackle, &c., and cargo, now libelled by the United States for the causes set forth in the libel now pending in the district court of the United States for the eastern district of Louisiana; that you do cite and admonish the owner or owners and all and every other person or persons having or pretending to have any right, title, or interest in or to the same, to be and appear before a district court of the United States for the district aforesaid, to be holden at the city of New Orleans, on or before the third Monday from the service hereof, to show cause, if any they have or can, why the said schooner Flying Scud, her tackle, &c., and cargo should not be condemned as prize forfeited to the United States, sold, and the proceeds thereof distributed according to law, agreeably to the prayer
4 of the libellant; and how you have executed this warrant that you make return according to law.

Witness the Honorable Edward H. Durell, judge of the said court, at New Orleans, this 5th day of September, 1863, and the 88th year of the independence of the United States.

[SEAL.] K. LOEW, *D'y Clk.*

Marshal's return, filed Sept. 19, 1863.

Received 5th Sept., 1863. Served copies on John Moran, petty officer on board in charge, on the 8th inst. In obedience to the within writ seized and took into my possession the sch'r Flying Scud, her tackle, &c., and cargo, appointed John Burke keeper thereof. Served copies of the libel and ad. warrant on John Moran, petty officer on board in charge. Published monition in the Era, a daily newspaper printed and published in New Orleans, on the 8th, 12, 19 Sept., 1863.

AMOS WHEELER, *Dep. U. S Marshal.*

5 In the matter of the sch'r Flying Scud and cargo, a prize.

PRIZE COMMISSIONERS' OFFICE, *New Orleans, Sept. 9th*, 1863.

To the hon. the judge of the district court of the United States for the eastern district of Louisiana:

The undersigned, prize commissioners of the honorable court, respectfully report that on the 5th day of Sept., A. D. 1863, they received notice from Theo. H. Paine, prize master of the Flying Scud, and acting ensign of the U. S. navy on board of the U. S. st'r Princess Royal, of which vessel M. B. Woolsey was at the date hereinafter mentioned acting commander; that the said Acting Ensign Paine brought with him into this city a certain vessel, called the Flying Scud, and cargo, as a prize of the U. S. st'r Princess Royal; that said schooner had been captured on Wednesday, the 12th day of August, 1863, on or about 6 o'clock p. m., at the mouth of the Rio Grande; and the said Paine and a prize crew had been appointed by said Com'd'r M. B. Woolsey to bring said prize into this port and report her as required by the law and the usages in such cases observed; that the said prize master did seasonably deliver to us all such papers, passes, documents, &c., as were found on board of the captured schooner, and having a reference to and a connection with the captured property, and which were in the possession,
6 custody, or power of the captors; which documents were by one of us prize commissioners regularly marked and numbered from A to E,

being four in number, and the said prize master made a deposition identifying said documents and complying in all respects with the law; which deposition and the said documents are herewith transmitted to your honorable court.

That on the same day the said prize master produced to me three witness, persons captured with the said schooner, to wit:

1st. August Miller, cook of said vessel.

2d. Frank Milner, seaman of said vessel.

3d. Martin Smith, seaman of said vessel.

That we examined said three persons in preparatorio upon the standing interrogatories which have been adopted by the honorable court, as the same are found in Upton's Work on Prize Courts, (page 479, 3d edition;)
7 that said witnesses were examined separately on oath, and not in presence of each other, and unattended by counsel, after each had taken the necessary and prescribed oath to make true answer, &c., which answers were written down as required by law, each one separately to each interrogatory, and when entirely answered the said answers were signed by each witness, respectively, as the same are now transmitted to your honorable court.

That we proceeded aboard of said vessel, the Flying Scud, and examined her condition, and that it was impossible to state whether bulk had been broken or not; that the cargo consists of cotton, and that it is impossible to ascertain exactly the nature or quality of the cargo, without an unloading and undelivery of the same, which proceeding we now recommend to the honorable court. That we secured the hatches of said schooner with a view to the protection of the cargo until it is undelivered.

That we took possession of the said schooner and cargo on the 7th day of September, 1863, and turned over the same to James Graham, esq., U. S. marshal of this court, who is to safely keep the same until further order of the court. All of which, including the deposition of said Paine, with the documents by him identified, and the answers to the interrogatories taken as above, are now securely sealed, and are hereby submitted to this honorable court and deposited in its custody.

MICHAEL HAHN,
T. B. THORPE,
Special U. S. Prize Commissioners.

8 District court of the United States for the eastern district of Louisiana.

In the matter of Sch'r Flying Scud and her cargo, a prize.

Theo. H. Paine, prize master of the schooner Flying Scud, detached from the U. S. st'r P. Royal, of which M. B. Woolsey is commander, being duly sworn, deposes and says that the Flying Scud was captured off the mouth of the Rio Grande, on Wednesday, the 12th of August, 1863, about 6 o'clock p. m. And said deposes and says that certain papers, marked from A to E, inclusive, and further identified by the initial letters put on them by Special Prize Commissioner T. B. Thorpe, are the same that were captured with the sch'r Flying Scud, and the deponent has delivered to the prize commissioner each and every document, paper, and writing whatsoever received by him relating to the aforesaid captured property in the same state and condition in which he received them, without "fraud, subornation, or embezzlement," and without any addition or alterations whatsoever; and he does not know nor does he believe that any of the documents are missing or wanting.

And deponent further says that if at any time hereafter, and before the final condemnation or acquital of said captured property, any further or other paper relating thereto shall be found or discovered to his knowledge, they

shall be delivered up, or information thereof given to the prize commissioners of this district or to the honorable court.

THEO. H. PAINE, *Act. Ensign U. S. N.*

Sworn to and signed before me, special prize commissioner, this the 6th day of September, 1864, New Orleans, La.

T. B. THORPE, *Prize Commissioner.*

District court of the United States for the eastern district of Louisiana.

9 In the matter of the sch'r Flying Scud and cargo, a prize.

Deposition of August Muller, cook, a witness produced, sworn, and examined in preparatorio on the sixth day of September, in the year eighteen hundred and sixty-three, at the office of T. B. Thorpe, special prize commissioner, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. district attorney, in behalf of the captors of a certain vessel called the Flying Scud.

To the first interrogatory the witness answers:

1. Born in Bremen; when home live in Bremerhaven; lived there always; owes allegiance to the Free States of Germany; not married.

2. Was present at the capture of the vessel.

3. The vessel was captured on the 12th day of August, 1863, at the mouth of the Rio Grande, and brought to New Orleans.

4. Sailed under English colors, had no others on board.

10 5. There was no resistance made, no guns fired. There were thirty or forty ships in sight, lying on the Mexican side of the Rio Grande. The vessel captured was a merchantman.

6. Don't know anything about these things.

7. The name of the vessel was the Flying Scud. J. B. Boig was captain; do not know who appointed him master. Have known the vessel and the captain since the 31st of January. Believe he is married; he lives in Liverpool. Don't know what country he belongs to.

8. The Flying Scud is of about one hundred and forty tons burden. There were eight men on board at the time she was seized; five were Swedes, one a Norwegian; don't know the other two; all came on board at Nassau. I came on board at Nassau; the captain hired me.

9. I belonged to the vessel at the time of her seizure; was cook; had no interest in the cargo.

10. Since the 31st of January; first saw the Flying Scud at Nassau; she carried no guns; eight men; don't know where the vessel was built. Flying Scud; never heard of her being called by any other name.

11. When she got her cargo the captain said he would go to Havana. The voyage began at Nassau, and was to have ended at Havana. When
11 she left Nassau the Flying Scud was loaded with powder, timber, corn, and tin, also some horseshoes, and other things. These things were put on board at Nassau; know nothing about the Flying Scud before this voyage.

12. Know nothing about any papers belonging to the vessel. Her last voyage began at Nassau, and was to have ended at Havana. Know nothing of the vessel until I joined her as cook.

13. When she set sail for Nassau on her last voyage she had on board powder, tin, corn, timber, and other things. When she was captured she was loaded with cotton. The cotton was put on board in July and August, 1863.

14. Don't know who owned the vessel or cotton.

15. Don't know anything about these questions.

16. The cargo on board of the vessel at the time of her seizure was put on board in the months of July and August. Don't know who were the owners or consignees. Don't know who would own the cotton if it were released by the United States.

17. Know nothing of any bills of lading belonging to the vessel.

18. I have no papers belonging to the vessel; know nothing about the papers.

19. I cannot tell the degrees of latitude and longitude in which the capture was made; the month was August; the date, the 12th; the time, 6
12 o'clock in the afternoon.

20. Know nothing of any papers belonging to the vessel.

21. Knew nothing about a blockade.

22. Knew nothing about a blockade.

23. Know nothing relating to these questions.

24. Knew nothing about any blockade.

25. Don't know that the Fying Scud has ever been seized as a prize.

26. Have sustained the loss of my wages, nothing more.

27. Know nothing about insurance.

28. If the Flying Scud had reached Havana, I don't know who would have owned the cargo.

29. Don't know where the cargo on the vessel was produced.

30. The cotton was put on the vessel from lighters. The vessel was about one mile from the shore. I know nothing of any papers belonging to the vessel.

32. Saw nothing of any papers.

33. Bulk was not broken after the capture.

34. There were no passengers on the boat; the stevedore was on board. Know nothing of the history of the men on board. I believe the stevedore lives in New Orleans.

35. Know nothing of any papers belonging to the vessel.

36. We were captured while lying at anchor off the mouth of the Rio Grande.

37. Know nothing of the history of the vessel.

38. There were no guns on board of the vessel at the time of her capture, or any military stores of any kind.

39 The vessel left Nassau, as I understood, to go to Matamoras and return to Nassau, but I understood that when the vessel was loaded with cotton she would go to Havana. I knew nothing about the vessel's inten-
13 tions. I shipped as a cook, and supposed everything was right.

40. Know nothing about the vessel sailing with other ships. Know nothing relating to questions included in interrogatores 41, 42, 43.

AUGUST MULLER.

Sworn to and subscribed before me, special prize commissioner, this the 6th day of September, 1863, New Orleans, La.

T. B. THORPE, *Special Prize Commissioner.*

District court of the United States for the eastern district of Louisiana.

Deposition of Frank Milner, seaman of the schooner Flying Scud, a witness produced, sworn, and examined in preparatorio on the sixth day of September, 1863, at the office of T. B. Thorpe, special prize commissioner, on the standing interrogatories established by the district court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. dist. att'y, in behalf of a certain ship or vessel called the Flying Scud.

1. Born in Sweden. Call Sweden my home. Not married.

2. I was present at the capture of the Flying Scud.

3. She was captured at the mouth of the Rio Grande and brought to New Orleans. Don't know that the vessel that captured the Flying Scud had any commission to do so. Did not hear any one say why the vessel was captured.

4. The vessel sailed under English colors; had no other.

5. There was no resistance made at the time of the capture. There were fifty or sixty vessels in sight. She was a merchantman. The capturing vessel was a ship-of-war. Don't know how many guns she carried.

6. I do not know that the capturing vessel had any commission. The vessel has not yet been comdemned to my knowledge.

7. The name of the vessel was the Flying Scud. Her commander's name Boig. Don't know who appointed him captain. I have known the vessel about seven months. The captain took possession of the vessel at Nassau. Don't know who put him in possession. I think the captain lives in Liverpool. Don't know his country.

8. The Flying Scud's tonnage I do not know. There were six men before the mast, mate and steward, eight in all. Most of them are from Sweden. One is a Norwegian and one a German. All came on board at Nassau. They were shipped at Nassau by a man of the name of Soloman.

9. I belonged to the vessel as a hand; had no interest whatever in either vessel or cargo.

10. I have known the vessel seven months. I first saw her at Baltimore. Her name was the Flying Scud. Don't know her by any other name.

11. The Flying Scud left Nassau for Matamoras; from Matamoras to Havana. The voyage began at Nassau and was to have ended at Nassau. The route was changed at Matamoras. When she left Nassau she had on board tin, horseshoes, corn, soda, powder, and lumber. When she was captured she had nothing but cotton on board. The tin, powder, horseshoes, corn, and soda were landed at Brazos, Texas. This cargo was put on board at Nassau in last February; don't know the day.

12. She sailed from Nassau to Matamoras. Her last voyage began at Nassau and was to have ended at Nassau. The cargo she took on board at Nassau, consisting of tin, powder, horseshoes, corn, and soda, was delivered at Brazos, in Texas. The vessel then went around to the mouth of the Rio Grande.

13. Her lading on her last voyage has been already given. She had on board, at the time of her capture, nothing but cotton. The lading at Nassau was put on board in February and March. On the arrival of the vessel from Nassau she lay at the mouth of the Rio Grande nearly a month, and then went around to Brazos. Was at Brazos more than a month, then she came back to the mouth of the Rio Grande. Took in eleven bales of cotton at Brazos.

14. Don't know who owns the vessel.

15. Know nothing of any papers belonging to the vessel.

16. Commenced putting the cotton which was captured on board in the month of July, 1863. Don't know who owned the cotton.

17. Know nothing about any bills of lading.

18. Know nothing about any papers belonging to the vessel.

19. Don't know the degrees of latitude or longitude in which the vessel was captured. The capture was made on Wednesday, the 12th day of August, 1863, at 6 o'clock p. m. The capture was made near the mouth of the Rio Grande.

20. Know nothing of any papers belonging to the vessel.

21. Know nothing of the questions asked.

22. Know nothing of the questions asked.

23. Know nothing of the questions asked.

24. Know nothing of the questions asked.

25. Don't know anything about the Flying Scud having been taken as a prize.

26. I have sustained no loss by the capture. I have received nothing in the way of indemnity.

27. Know nothing about the insurance of the goods.

28. Don't know who would have owned the cotton on board the Flying Scud if it had reached Havana.

29. Don't know where the cotton seized on board the vessel was raised.

30. The cargo was brought on board in lighters and in small schooners, brought this way from the shore, from the Mexican side of the Rio Grande. Knew it was the Mexican side by the flag.

17 31. Know nothing of the questions asked.

32. Know nothing of the questions asked.

33. Bulk has not been broken since the capture.

34. There were no passengers on board at the time of the capture.

35. Know nothing of any briefs, passports, or other papers belonging to the vessel.

36. The Flying Scud was at anchor when captured.

37. Know nothing of the questions asked.

38. There were no guns on board of the Flying Scud or military stores of any kind.

39. I shipped at Nassau, with the understanding that the vessel would go to Matamoras from Nassau, and from Matamoras back to Nassau, and the time consumed was to be six months. They did not tell me at Nassau that they were going to Brazos Santiago, in Texas. While lying at the mouth of the Rio Grande a pilot came on board and took possession of the vessel. The pilot told the crew he was going a couple of miles along the coast. I was sick at time in the forecastle. The next morning when I came on deck the Flying Scud was lying off Brazos. The whole cargo, according to the best of my knowlege, was landed at the Brazos. The time consumed in landing the cargo might have been a month or five weeks. Took on board eleven bales of cotton and two hides. Then came back to the mouth of the Rio Grande. Paid no attention to dates.

18 40. The Flying Scud, while I was on her, never sailed in company with other vessels, armed or unarmed.

41. Knows nothing of the questions asked.

42. Knows nothing of the questions asked.

43. The Flying Scud, as far as I knew, never sailed in company with armed ships. Never assisted in making prizes or in seizing as prizes persons, vessels, or property of citizens of the United States.

FRANK MILNER,
Seaman on board the Sch'r Flying Scud.

Sworn to and subscribed before me, special prize commissioner, this the sixth day of September, 1863.

T. B. THORPE, *Special Prize Commissioner.*

District court of the United States for the eastern district of Louisiana.

Deposition of Martin Smith, seaman on board of the schooner Flying Scud, a witness produced, sworn, and examined in preparatorio on the seventh day of September, 1863, at the office of T. B. Thorpe, special prize commissioner, on the standing interrogatories established by the district
19 court of the United States for the eastern district of Louisiana, the said witness having been produced for the purpose of such examination by Rufus Waples, esq., U. S. dist. att'y, in behalf of the captors of a certain vessel called the Flying Scud.

1. Born in Norway; sailor; have no home except my ship.

2. Was present at the capture of the Flying Scud. She sailed under English colors.

3. Captured at the mouth of the Rio Grande and brought to New Orleans.

4. Sailed under English colors; had no others.

5. No resistance made at the time of the capture. The Flying Scud was a merchantman.

6.

7. The name of the vessel was the Flying Scud. The captain's name was Boig; don't know who appointed him captain. I believe the captain is a Scotchman; has a family in Liverpool.

8. The Flying Scud is a vessel of one hundred and forty-one tons; six hands before the mast; two more, the steward and mate, and the captain. All came on board at Nassau except the mate; he shipped at the Rio Grande.

9. I was a seaman on board of the vessel at the time of her capture. Had no interest in the cargo.

10. I have known the vessel since the 31st of Jan'y, 1863. First saw her in Nassau. She carried no guns. Built in Baltimore. Nine men on board of her at the time of the capture. The vessel's name was Flying Scud. Never heard her by any other name.

11. At the time of the capture the vessel was bound for Havana. Began the voyage on the 31st of Jan'y, at Nassau. The voyage was to have begun at Nassau to go to Matamoras and back again to Nassau. When the vessel left Nassau she had on board horseshoes, lumber, tin in boxes, soda in kegs. This was all I saw in the harbor of Nassau. Just before the vessel sailed we, the sailors, had three days' leave of absence and seventeen dollars advanced, which we spent on shore. When we returned to the vessel the hatches were closed, and we started on the voyage. With the cargo named we came to Matamoras; lay there about a week or ten days; then a pilot and a captain came on board in the night, and got under weigh about 10 o'clock p. m. We asked the pilot where the vessel was going, and he said a few miles down the coast. The next morning the vessel came to anchor at Brazos Santiago, Texas. All the cargo was taken ashore and brought up to Point Isabel. When the lighter came alongside orders were given to put the fires out in the stove as they were going to unload powder. This was the first time that I saw any powder or knew that it was on board. After the cargo was landed we took on board eleven bales of cotton, and then came back to the mouth of the Rio Grande. This trip to Brazos and coming back to the mouth of the river consumed some five or six weeks. At the time the vessel was taken she had on board two hundred and four bales of cotton. The cotton was put on board from lighters about eight or ten days before the vessel was captured.

12. Her last voyage began at Nassau and was to have ended at Nassau, but the captain, after he got to the mouth of the Rio Grande, decided he would go to Havana.

13. When the vessel first set sail on her voyage she was loaded with tin, soda, timber, horseshoes, and, as I afterwards learned at the Brazos, powder. At the time of her capture she was loaded with cotton.

14. I only know the name of one owner of the vessel. He lives in Nassau. His name is Hart. I do not know of what country Mr. Hart is a subject or citizen; know nothing about his history.

15.

16. The cargo of cotton was put on board somewhere about the 25th of August; it was not all put on board at the same time; it came on board in lighters; know nothing about the lightermen.

17.

18.

19. I do not know the latitude and longitude in which the vessel
22 was captured. The capture was made on Wednesday, the 12th August, 1863, at six o'clock p. m.

20.
21.
22.
23.
24.

25. I do not know that the vessel has ever been seized or condemned as a prize.

26. I have sustained no loss by the seizure of the vessel except my wages.

27.

28. I do not know to whom these goods would have belonged if they had reached Havana, that were on board of the Flying Scud.

29. Do not know where the cargo of cotton was raised.

30. The cotton was brought on board of the vessel in lighters. The Flying Scud was about a mile from the shore.

31.
32.

33. I know nothing about the bulk being broken.

34. No passengers were on board; no one secreted.

35.

36. The vessel was at anchor when it was seized.

37.

38. There were no guns on the Flying Scud at any time that I know of, and there were no military stores on board at the time she was captured. The powder which was on the Flying Scud, and delivered at Brazos, was put on board at Nassau while the seamen were ashore. I do not
23 know who put it on board. The powder was put up in 15, 25, and 100 p'd kegs. This I learned after I got to the Brazos.

39. I knew nothing about the Flying Scud being a blockade runner. I would not have gone on her if I had known she was a blockade runner. The captain told me he was going on a regular voyage to Matamoras and back to Nassau.

40. The Flying Scud never sailed in company with any ships that I know of.

41. The Flying Scud went into Brazos. I believed that it was a port blockaded by the United States, after I came back to the mouth of the Rio Grande. I had nothing to do with running the blockade; was a seaman on the vessel, and went along with her as such.

42.

43.

MARTIN SMITH,
Hand on board the Sch'r Flying Scud.

Sworn to and signed before me, special prize commissioner, this the seventh day of September, 1863.

T. B. THORPE, *Special Prize Commissioner.*

24 PRIZE COMMISSIONERS' OFFICE, *New Orleans, Sept. 9th*, 1863.

To the hon. the district court of the United States for the eastern district of Louisiana:

The accompanying document, addressed to the prize commissioners by W. H. Dana, lieut. comd'r of U. S. st'r Cayuga, is respectfully submitted to the hon'l court as one of the documents accompanying the delivery of the Flying Scud into the possession of said commissioners.

T. B. THORPE, *Special Prize Commissioner.*

U. S. S. CAYUGA, *off the Rio Grande, August* 14, 1863.

SIR: I beg leave to state that the officers and crew of the U. S. gunboat Cayuga claim share in the prizes Atlantic, (herm. brig,) seized on the 10th inst., and Flying Scud, (schooner,) seized on the 12th inst., at the Rio Grande by the U. S. S. Princess Royal. The Cayuga was within a very short distance of the prizes at the time of their seizure, all vessels being at anchor. The Princess Royal and Cayuga are here on the same service. The Princess Royal will likely claim share in a prize (the schooner J. T. Davis) taken here by this ship a day or two previous, and the
25 commander of the Princess Royal said he thought the capture by the Princess Royal and Cayuga would be joint prizes while the two vessels are together.

Very respectfully, your ob't serv't,

W. H. DANA,
Lieut. Com'd'r, Com'd'g U. S. St'r Cayuga.

Hon. JUDGE OF COURT *of Prize Commissioners, New Orleans, La.*

Documents found on board and filed by prize commissioner.

DOCUMENT A.

MOUTH OF THE RIO GRANDE, *August*, 1863.

Received, from Capt. J. B. Boig, the sum of forty dollars in part payment of my share of the sloop Native, No. 40, now sold to him for the sum of four hundred dollars, the whole to be paid within one week from this date; Capt. Boig to be allowed to run the boat for his benefit, but if anything happens to her to lose or in any way damage the boat at his risk and expense, and likewise the boat to be security for the money if not paid within the given time, but I guarantee the amount to be returned to Capt. Boig if I cannot give him a title to my third of the boat.

R. C. MOSS.

26 DOCUMENT B.—(Three bills of lading attached.)

Shipped, in good order and condition, by J. Aldige, on board the English
S G 36 b. c., 17,534 schooner Flying Scud, whereof is master,
L 2 b. c., 870 now lying at the port of Matamoras and bound for Havana,
38 b. 18,404 lbs. to say, thirty-eight bales of cotton, weighing, in all, eighteen thousand four hundred and four pounds, being marked and numbered as in the margin, and are to be delivered in the like good order and condition at the port of Havana, (the dangers of the seas and all other dangers excepted,) unto order or to assigns, he or they paying freight for the said at the rate of two and a half cents a pound, with 5 per cent. primage. Many of the bales are in an indifferent condition; ship not responsible for any kind of damage; weights, contents, and quality unknown.

In witness whereof, the master or purser of the said vessel hath affirmed to four bills of lading, all of this tenor and date, one of which being accomplished the others to stand void.

Dated in Matamoras the day of , 186 .

J. B. BOIG.

27 Shipped, in good order and well conditioned, by Lopez & Santos Coy, in and upon the British schooner called the Flying Scud, whereof
L & S C is master for the present voyage, and now lying in the port of Matamoras and bound for Havana, thirty bales of cotton, w'g 15,300 lbs., being marked and numbered as in the margin, and are to be delivered

in like good order and well conditioned at the end of the ship's tackles in the aforesaid port of Havana, (the dangers of fire at sea or on shore, collisions, accidents from machinery, boilers, steam, or any other accidents and dangers of the seas, rivers, and steam navigation, of whatever nature or kind soever, excepted; and with liberty to cross all bars with or without pilots, and to tow and assist vessels in all situations,) unto Messrs. L. Will & Co., or to their assigns, he or they paying freight for the said goods as customary, with five per cent. primage and average accustomed.

In witness whereof, the master, purser, or agent of the said ship hath affirmed to three bills of lading, all of this tenor and date, one of which being accomplished the others to stand void.

28 Weights, contents, quality, and value unknown, and not answerable for leakage or breakage, rust of iron or steel, if properly stowed. The owners of this ship will not be accountable for gold, silver, bullion, specie, jewelry, precious stones or metals, unless bills of lading are signed therefor and the value therein expressed.

The landing of the within goods on the wharf to be considered a delivery to the consignee.

Matamoras, 3rd August, 1863.

JOHN B. BOIG.

Shipped, in good order and well conditioned, by B. Caymari, in and upon the British schooner called the Flying Scud, whereof is master
B C. for the present voyage, and now lying in the port of Matamoras and bound for Havana, one hundred and thirty-seven bales cotton, w'g 62,335 lbs., being marked and numbered as in the margin, and are to be delivered in like good order and condition at the end of the ship's tackles, in the aforesaid port of Havana, (the dangers of fire at sea or on shore, collisions, accidents from machinery, boilers, steam, or any other accidents and dangers of the
29 seas and rivers and steam navigation, of whatever nature or kind soever, excepted; and with liberty to cross all bars with or without pilots, and to tow and assist vessels in all situations,) unto Messrs. Coppinger & Co., or to their assigns, he or they paying freight for the said goods as customary, as p'r charter-party, with five per cent. primage and average accustomed.

In witness whereof, the master, purser, or agent of the said ship hath affirmed to three bills of lading, all of this tenor and date, one of which being accomplished the others to stand void.

Weights, contents, quality, and value unknown, and not answerable for leakage or breakage, rust of iron or steel, if properly stowed. The owners of this ship will not be accountable for gold, silver, bullion, specie, jewelry, precious stones, or metals unless bills of lading are signed therefor and the value therein expressed.

The landing of the within goods on the wharf to be considered a delivery to the consignee.

Matamoras, 3rd Aug't, 1863.

JOHN B. BOIG.

30 DOCUMENT C.

Certificate of British registry.

Official number of ship, 46,319; port number, 104; date of registry, 24th November, 1862; V. H. W. S., signal letters; name of ship, Flying Scud, and her foreign name is Flying Scud; British or foreign built, foreign, built at Talbott County, State of Maryland, in the year 1857; port of registry, Nassau, N. P.; how propelled, by sails; number of decks, one; number of masts, two; rigged, schooner; stern, square; build, carvel; galleries, none; head, billet; framework, wood.

Measurements.

	Feet.	Tenths.
Length from the fore part of stem, under the bowsprit, to the aft side of the head of the stern post	92	2
Main breadth to outside plank	23	7
Depth in hold from tonnage deck to ceiling at midships	6	7

Name and address of builder unknown.

Tonnage.

	No. of tons.
Tonnage under tonnage deck	128.22
Closed-in spaces above the tonnage deck, if any, viz:	
Space or spaces between decks	
Poop	
Round house	
Other inclosed spaces, if any, naming them, trunk	13.26
Total register tonnage	141.48

31 I, the undersigned, registrar of the port of Nassau, N. P., hereby certify that the ship, the description of which is prefixed to this my certificate, has been duly surveyed, and that the above description is true; that Chas. S. Carmine, whose certificate of competency or service is No. —, is the master of the said ship, and that the name, residence, and description of the owner and number of sixty-fourth shares held by him are as follows:

Name, residence, and occupation of the owner, James Thompson, of Liverpool, England, merchant; number of sixty-fourth shares, sixty-four.

Dated at Nassau, N. P., Bahamas, the twenty-fourth day of November, one thousand eight hundred and sixty-two.

E. B. A. TAYLOR, *Act'g Registrar.*

Notice.—A certificate of registry granted under the "merchant shipping act" is not a document of title; it does not necessarily contain notice of all changes of ownership, and in no case does it contain an official record of any mortgages affecting the ship.

Endorsed: British consulate, New York, Dec'r 18th, 1862. Richard H. Eccles has now become master. By the consul—

JAS. FITZPATRICK, *Clerk to H. B. M. Consul.*

32 Name of the person owner of the ship within described on the 29th Nov., 1862, Henry Rowland Saunders, of Nassau, N. P., merchant; No. of sixty-fourth shares held by him, sixty-four, (64.)

I hereby certify that the person above mentioned is on this twenty-ninth day of November, 1862, registered owner of the ship within described.

E. B. A. TAYLOR, *Act'g Registrar.*

CUSTOM-HOUSE, NASSAU, N. P., *26th Jan'y*, 1863.

I hereby certify that John T. Cleare has this day been appointed master of the ship within described.

E. B. A. TAYLOR, *Act'g Registrar.*

Name of the person owner of the ship within described on the 13th Feb'y, 1863, Benjamin Wooley Hart, of London, now residing in Nassau, merchant; No. of sixty-fourth shares held by him, sixty-four, (64.)

I hereby certify that the person above mentioned is on this thirteenth day February, 1863, registered owner of the ship within described.

E. B. A. TAYLOR, *Act'g Registrar.*

CUSTOM-HOUSE, NASSAU, N. P., 20*th Feb'y*, 1863.

I hereby certify that John Burn Boig, whose certificate of competency is No. 54,413, has this day been appointed master of the ship within described.

E. B. A. TAYLOR, *Act'g Registrar.*

(Annexed.)

Master's certificate of service, issued pursuant to the act 13*th and* 14*th Vict.' cap.* 93.

Renewed, No. 54,413, (fifty-four thousand four hundred and thirteen.)

John Burn Boig, born at Eyemouth, county of Berwick, in the year 1824; has been employed in the capacities of app., mate, and master 13 years in the British merchant service in the foreign trades.

33 Bearer's signature, John Burn Boig. Granted by the registrar general of seamen, London, by order of the Board of Trade.

M. MORIN, *Registrar.*

No. of register ticket, 213,776; issued at Liverpool this 7th day of April, 1851.

R'D AINSLY.

[Any person forging, altering, or fraudulently using this certificate will be subject to a penalty of fifty pounds, or three months imprisonment, with or without hard labor; and any other than the person it belongs to becoming possesed of this certificate is required to transmit it forthwith to the registrar general of seamen, London.]

DOCUMENT D, (three receipts.)

Received, in good order and condition, on board the schooner Flying Scud, from Brasos warehouse, 30 bales cotton, B. C., ac. of B. Caymari, esq.

Off mouth Rio Grande, July 29, 1863.

A. D. WOODWARD.

Received on board the schooner Flying Scud from schooner Cormen, in good order and condition, four (4) bales cotton, B. C., ac. B. Caymari, esq.

Off mouth Rio Grande, August 1st 1863.

A. D. WOODWARD.

34 Received, in good order and condition, on board schooner Flying Scud from Brasos warehouse thirty-five (35) bales cotton, B. C., ac. of B. Caymari, esq.

Off mouth Rio Grande, July 28th, 1863.

A. D. WOODWARD.

Papers enclosed in Document E.

MATAMORAS, *May* 2, '63.

Capt. J. B. Boig, sch'r Flying Scud:

DEAR SIR: The bearer of this, Cap. , has a lot of 10 bales of cotton on board his schooner lying at Pt. Isabel, which I have bought. Before receiving it on board your vessel you will please see it weighed and that it is in good order. The schooner will lighter it to you free of expense.

I am surprised that you have never written to me in answer to my several letters. I wish to know how you are getting on. About 200 packages powder, some lumber, tin, and fish have not yet arrived. When you can come up.

JOHN D. MIRRAELIS.

35 Received on board schooner Flying Scud from schooner Cormen, in good order and condition, (30) thirty bales cotton, L. & S. C., ac. of Mess. Lopez & Santos Coy.

Off mouth Rio Grande, August 1st, 1863.

A. D. WOODWARD.

Received on board the schooner Flying Scud from the lighter Marie Sabazar 38 bales cotton, marked as follows, S. G. 36 bales, L. 2 bales, total 38 bales.

Boca del Rio, July 29, 1863.

A. D. WOODWARD.

Received on board schooner Flying Scud from Brasos warehouse, in good order, thirty-four (34) bales of cotton, ac. B. Caymari, esq.

Boca, July 28th, 1863.

A. D. WOODWARD.

Received, in good order and condition, on board schooner Flying Scud from Brasos warehouse (34) thirty-four bales cotton, B. C., ac. B. Caymari, esq.

July 31st, 1863.

A. D. WOODWARD.

NASSAU, N. P., *Feb'y 18th*, 1863.

36 Received on board sch'r Flying Scud, L—D 257, 247, 278, 266, 262, 292, 250, 279, 256, 255, 252, 264, 263, 286, 283, 280, 267, 270, 293, 251, 248, 268, 287, 273, 265, 260, 245, 269, 254, 258, 253—31 kegs bicarb. soda, 1 cwt. L—D 158, 156, 161, 160, 154—5 bbls.; [W] 4, 3, 10—3 casks, 4 bbls., 1,992 nett—10 cwt. nett, epsom salts.

CHARLES A. HAUNER.

D'R MADAM: I am extremely happy to inform you of the safe arrival of Capt. L—— in an English port not far from this. I left him there to sail in two days to come here in a small vessel that will not be liable at all to any kind of search. He came from L'pool with me, and has been ever since quite well; he desired me to write you in case I got in all right, but would not write himself, fearing I might be captured by the Yanks. There is no doubt but you will hear from himself very soon now.

I am, d'r madam, yours, very respectfully,

J. B. BOIG.

P. S.—If there is an opportunity offering will you write him and address either to care of Capt. Boig or to Sawyer & Menendez, Nassau, as he is very anxious to hear how you are faring.

37 B. W. Hart, esq., bo't of Savage & Menendéz:

Feb. 16th, 1863. S. & M, 120 bags corn, at $2 50..... $300 00

Schooner Flying Scud bought of C. Perez:

Feb. 11. 4 lead scuples	$8 00
Repairing teapot, lantern, and 2 covers	1 00
14. 4 lbs. of stovepipe and 1 elbow	1 50
19. 7 panes of glass and fitting same	1 50
	12 00

Rec'd payment. C. PERZE.
Nassau, 19th Feb., 1863.

Schooner Flying Scud to D. S. Farrington:

Feb'y 3, 1863. 5 paint renter, at 60 ..... $3 00

Paid. D. S. FARRINGTON.

Benj. W. Hart bo't of Jno. S. George:

Feb. 19, 1863. 47 bags of corn, marked G £23 10 0

Schooner Flying Scud, capt. and owners, to Rob't Wilson, DR.:

To supplying 540 gallons water, at 1 ..... $5 40

Received payment. ROBERT WILSON.
Nassau, 19 Feb., '63.

38 Schooner Flying Scud bo't of C. R. Perpault:

Feb. 21, 1863. Six pans $1 50

Paid. C. R. PERPAULT.

B. W. Hart, esq., to Palasias & Co., DR:

Feb. 1, 1863. 100 bags corn £50 0 0

[P. & Co.]
Paid. PALASIAS & CO.

Capt. Boig, sch'r Flying Scud, bo't of Palasias & Roke:

Feb. 21, 1863. 2 yards damask $2 00

Paid. PALASIAS & ROKE.

B. W. Hart, esq., to H. Adderly & Co., DR:

Feb'y, 1863. [A] 150 bags corn £75 0 0

Sch'r Flying Scud bo't of J. C. Ramoney & Co:

Feb. 1863. One water-closet $3 00

Paid. J. C. RAMONEY & CO.

Schooner Flying Scud to C. P. Farrington, DR:

Feb. 1863. Making 18 belaying pins, 25c., $4 50; turning and making pump-shira, $1 50..... $6 00

Paid. C. F. FARRINGTON.

39 Received from Capt. Boig, for four days' labor, $4.
GLASKOW ⋈ TRAB.

Received from Capt. Boig, for four days' labor, $4.
ROBERT ⋈ BELEW.

Received from Capt. Boig, for 3 days' labor, $3.
PHILLIP ⋈ BROWN.

Received from Capt. Boig, for 3 days' labor, $3.
JAMES ⋈ WILLIAMS.

Received from Capt. Boig, for 6 days' labor, $12.
JOHN ⋈ FARQUHARSON.

Received from Capt. Boig, for 3 days' labor, $9.
GRANT ⋈ OLBERRY.

Received from Capt. Boig, for 1 day's labor, $1.
ALBERT ⋈ REMENS.

Received from Capt. Boig, for 1 day's labor, $1.
SAMUEL ⋈ PERPALL.

Paid in all, $31 75.
10th Feb. 1863.

BOCA DEL RIO, *May 10th*, 1863.

Received from Capt. Boig the sum of ten dollars in cash and an order on Capt. Tassum for sixty dollars, the balance of wages up to date.
CHARLES A. HAUNER.

BOCA DEL RIO, *May*, 1863.

Sch'r Flying Scud, Capt. Boig, bo't of Capt. Crowell:
One bbl. sugar, 220 lbs., at 11 cents..... $24 00

Rec'd payment. SAMUEL CROWELL.

40 NASSAU, *Jan'y 24th.*

To Capt. Boig:

Please to give the bearer one day's pay at $2 per day.
Remaining, yours truly,
HENRY A. RAXON. JOHN CRUIKSHANK.

BOCA DEL RIO, *June 3d*, 1863.

To J. D. Merrilies, esq.:

Please pay George Dockter the sum of one hundred and fifty dollars on my account, and oblige—
JOHN B. BOIG.

GEORGE DOCKTER & COY, per H'Y J. GILDEMASTER.

MATAMORAS, *May* 10*th*, 1863.

Received from Captain J. B. Boig the sum of seventeen dollars, balance of wages due me from sch'r Flying Scud.

FELIPE OBEGERO.

NASSAU, *Feb'ry* 21*st*, 1863.

Received from Captain Boig for one week's carpenter work, $1 per day..... $2 00
½ day extra..... 50

JOHN FARQUHARSON.

41 NASSAU, N. P., *February* 25*th*, 1863.

I do hereby agree that for the sum of twenty-five dollars, paid to me in cash on leaving the vessel, I will pilot her, the schooner Flying Scud, from this port to the southwest end of Fortune Island, going by way of the west side of the crags that are on the western edge of Exhume Sound, and guarantee to give every satisfaction.

WILLIAM NEILLY'S mark ⋈.

Witness: ROB'T E. FARQUHARSON.

FORTUNE ISLAND, *February* 5*th*, 1863.

Received the within amount.

WILLIAM NEILLY'S mark ⋈.

MOUTH OF THE RIVER, *July* 27*th*, 1863.

Received from Capt. J. B. Boig the sum of forty dollars in silver, as deposit on my share of sloop Native, now sold by me to Capt. Boig, I having authority to sell the same, the remainder of the amount sold for, which is two hundred and sixty dollars, to be paid within three weeks, and the whole three hundred dollars is to be paid in either British or American gold; delivery of the boat to be made on payment of the whole amount, but the boat or sloop to be at the risk and expense of present owners until that time, and should anything happen that she cannot be delivered, the $40 to be again returned to Captain Boig.

RICHARD C. WARN.

42 An evelope addressed: Capt. J. B. Boig, barque Architect, Nassau, Bahama Islands.

NASSAU, *February* 20*th*, 1863.

It is hereby agreed that Capt. Boig, of the schooner Flying Scud, shall carry to Matamoras, on the deck of his vessel, a small schooner boat belonging to Mr. Chas. Hastings, in consideration of which services he shall, after his arrival in Matamoras, have the entire use and control of her, and shall make a lighter of her to discharge his vessel's cargo, but not to be required to take on shore more than one half of said cargo unless he is paid at the same rate for all over the half as other lighters may be getting at the time. She shall be manned and disbursed by Capt. Boig whilst working for him, which disbursements shall be refunded on her delivery.

CHAS. HASTINGS.

U. S. MARSHAL'S OFFICE, N. O., *Sept.* 23, 1863.

John Burk, keeper of the schooner Flying Scud, will permit Mr. Briggs, the bearer, to examine such papers as may be found on board the schooner.

JAS. GRAHAM, *U. S. Marshal.*

43 *Appointment of att'y for captors, from minutes of—*

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

It is ordered by the court that D. Augustin, esq., be appointed attorney to represent the captors interested in the above-entitled and numbered prize cause, and that he be duly notified of his appointment.

Claim and answer of Lopez & Santos Coy, filed Sept. 19th, 1863.

United States district court, eastern district of Louisiana.

UNITED STATES
vers.
SCH'R FLYING SCUD, &C. }

And now comes Lopez & Santos Coy, both bona fide neutral alien citizens of the republic of Mexico, merchants, residing and doing business in the city of Matamoras, republic of Mexico, through their special agent and attorney in fact, D. de Goicouria & Co., a commercial firm located in the city of New Orleans, intervening for their interest
44 in the cargo of the schooner Flying Scud, appear before this hon. court, and for claim and answer to the libel of information in prize filed herein against the schooner Flying Scud, her tackle, apparel, and furniture, together with the goods, wares, and merchandise laden therein, by Rufus Waples, esq., United States district attorney for the eastern district of Louisiana, saith that they are the true and bona fide owners, and no other person has any interest or ownership therein, of thirty bales of cotton, weighing 15,300 pounds, shipped by these respondents on said schooner Flying Scud, in the port of Matamoras, republic of Mexico, on the 3rd August, 1863, for the port of Havana, in the island of Cuba, the same being consigned to Messrs. L. Will & Co., of said city; that said cotton was shipped on board of said schooner in good faith, in regular form, and upon compliance with all legal requisites; that on or about the 12th of August, 1863, said schooner Flying Scud was captured as a prize to the United States by the U. S. st'r Princess Royal; that at the time thereof said schooner was lying off the mouth of the Rio Grande, in the republic of Mexico, and within the jurisdiction of Mexican authority; that said schooner and cargo were regularly cleared from the custom-house at Matamoras for the port of Havana, in the
45 island of Cuba, and was engaged in legitimate commerce, on a lawful voyage; that said capture, besides having been made in violation of the rights of a power at peace with the United States, was made without the least color of right or justice, and cannot affect the ownership of your respondents in and to said cotton.

Wherefore, these respondents pray that this hon. court would be pleased to pronounce against the libel aforesaid, as far as relates to the said thirty bales of cotton, weighing 15,300 pounds, as aforesaid, the property of these respondents, and decreeing that the same may be restored to them; and to condemn the libellant in costs, and otherwise right and justice to administer in the premises.

C. ROSELINS, *Proctor for Claimants.*

Emile Roques, being duly sworn, deposes and says that he is a member of the commercial firm of D. de Goicouria & Co., located in this city; that his said firm is the special agent and attorney in fact of Lopez & Santos Coy,

both bona fide neutral alien citizens of the republic of Mexico, residing and doing business in the city of Matamoras, in said republic, and are absent from the city of New Orleans; that all the facts and allegations in the
46 foregoing claim and answer contained are, to the best of affiant's knowledge and belief, correct and true.

EM. ROQUES.

Sworn to and subscribed before me this 19th September, 1863.

K. LOEW, *D'y Cl'k.*

Bond for costs, filed Sept. 19th, 1863.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

Know all men by these presents that we, Lopez y Santos Coy, (p. pro D. de Goicouria, of this city,) the said Coys being citizens of the republic of Mexico, claimants, as principals, and Emiles Roques as surety, are held and firmly bound unto the United States of America, libellant, in the sum of two hundred and fifty dollars, lawful money of the United States of America, for the payment whereof to the said United States or assigns we jointly and severally bind ourselves, our heirs, executors, and administrators firmly by these presents.

Witness our respective names and seals hereunto affixed by us, at New Orleans, this 19th day of September, A. D. 1863.

Whereas an admiralty warrant was lately issued out of the honor-
47 able the district court of the United States of America for the eastern district of Louisiana, at the suit of the United States *vers.* the schooner Flying Scud, her tackle, apparel, and furniture and cargo, and numbered 7,678 on the docket of the said court, commanding the marshal to seize and take into his possession the said schooner and cargo, which has been seized accordingly, the said Lopez & Santos Coy having at the time, and by reason of the signing, sealing, and delivery of these presents, filed a claim to the said cargo, in the clerk's office of the said court, and which claim is now of record.

Now, the condition of the above obligation is such that if the said claimant and surety abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise, shall remain in full force and virtue.

LOPEZ Y SANTOS COY.
p. pro D. DE GOICOURIA & CO.
EM. ROQUES.

Signed, sealed, and delivered in presence of—
K. LOEW, *D'y Cl'k.*

48 *Claim and answer of B. Caymari, filed Sept. 19th, 1864.*

United States district court, eastern district of Louisiana.

UNITED STATES
vers.
SCH'R FLYING SCUD, &C.

And now comes Bernard Caymari, a bona fide neutral alien subject of the kingdom of Spain, a merchant, residing in the city of Matamoras, republic of Mexico, through his special agents and attorneys in fact, D. de Goicouria & Co., a commercial firm located in the city of New Orleans, intervening

for his interest in the cargo of the schooner Flying Scud, appears before this honorable court, and for claim and answer to the libel of information in prize filed herein against the schooner Flying Scud, her tackle, apparel, and furniture, together with the goods, wares, and merchandise laden therein, by Rufus Waples, esq., United States district attorney for the eastern district of Louisiana, saith that he is the true and bona fide owner of one hundred and thirty-seven bales of cotton, weighing 62,335 pounds, and no other person has any interest or ownership therein, shipped by this respondent on said schooner Flying Scud, in the port of Matamoras, republic of Mexico, on the 3rd of August, 1863, for the port of Havana, in the island of Cuba,
49 the same being consigned to Messrs. Coppinger & Co., of said city; that said cotton was shipped on board of said schooner in good faith, in regular form, and upon compliance with all legal requisites; that on or about the 12th day of August, 1863, said schooner Flying Scud was captured as a prize to the United States, by the U. S. steamer Princess Royal; that at the time thereof said schooner was lying off the mouth of the Rio Grande, in the republic of Mexico, and within the jurisdiction of Mexican authority; that said schooner and cargo were regularly cleared from the custom-house at Matamoras for the port of Havana, and said schooner was engaged in legitimate commerce, on a lawful voyage; that said capture, besides being made in violation of the rights of a power at peace with the United States, was made without the least color of right or justice, and cannot affect the ownership of your respondent in and to said cotton.

Wherefore, this respondent prays that this honorable court would be pleased to pronounce against the libel aforesaid, as far as relates to the said one hundred and thirty-seven bales of cotton, weighing 62,335 pounds, as aforesaid, the property of this respondent, and decreeing that the
50 same may be restored to him, and to condemn the libellant in costs, and otherwise right and justice to administer in the premises.

C. ROSELINS, *Proctor for Claimant.*

Emile Roques, being duly sworn, deposes and says that he is a member of the commercial firm of D. de Goicouria & Co., located in this city; that his firm is the special agent and attorney in fact of Bernard Caymari, a bona fide neutral alien subject of the kingdom of Spain, residing and doing business in Matamoras, republic of Mexico, who is now absent from the city of New Orleans, and that all the facts and allegations in the foregoing claim and answer contained are, to the best of affiant's knowledge and belief, correct and true.

EM. ROQUES.

Sworn to and subscribed before me this 19th September, 1863.

K. LOEW, *D'y Clk.*

51 *Bond for costs, filed Sept. 19th, 1863.*

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

Know all men by these presents that we, Bernard Caymari, (p. pro D. de Goicouria & Co., of this city,) the said Caymari being a subject of the kingdom of Spain, residing at Matamoras, claimant, as principal, and Emile Roques, as surety, are held and firmly bound unto the United States of America, libellants, in the sum of two hundred and fifty dollars, lawful money of the United States of America, for the payment whereof, to the said United States or assigns, we jointly and severally bind ourselves, our heirs, executors, and administrators firmly by these presents.

Witness our respective names and seals hereunto affixed by us, at New Orleans, this 19th day of September, 1863.

Whereas an admiralty warrant was lately issued out of the honorable the district court of the United States for the eastern district of Louisiana, at the suit of the United States *vers.* the schooner Flying Scud, her tackle, apparel, and furniture and cargo, and numbered 7,678 on the docket of the said court, commanding the marshal to seize and take into his possession the said schooner and cargo, which has been seized accordingly, the said B.
52 Caymari having at the time, and by reason of the signing, sealing, and delivery of these presents, filed a claim to the said cargo in the clerk's office of the said court, and which claim is now of record:

Now, the condition of the above obligation is such that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise, shall remain in full force and virtue.

BERNARD CAYMARI.
p. pro D. DE GOICOURIA.
EM. ROQUES.

Signed, sealed, and delivered in presence of—
K. LOEW, *D'y Cl'k.*

Claim and answer of Jules Aldige, filed September 19th, 1863.

United States district court, eastern district of Louisiana.

UNITED STATES
vers.
SCH'R FLYING SCUD, &c.

And now comes Jules Aldige, a bona fide neutral alien subject of
53 the empire of France, a merchant, residing in the city of Matamoras, republic of Mexico, through his special agent and attorney in fact, Joseph Bayle, a neutral alien subject of the French empire, residing and doing business in the city of New Orleans, intervening for his interest in the cargo of the schooner Flying Scud, appears before this honorable court, and for claim and answer to the libel of information in prize filed herein by Rufus Waples, United States district attorney for the eastern district of La., against the schooner Flying Scud, her tackle, apparel, and furniture, together with the goods, wares, and merchandise laden therein, saith that he is the true and bona fide owner, and no other person has any interest or ownership therein, of thirty-eight bales of cotton, weighing 18,404 pounds, shipped by this respondent on said sch'r Flying Scud, in the port of Matamoras, republic of Mexico, on the 6th day of August, 1863, for the port of Havana, in the island of Cuba, the same being consigned to Mr. P. Martin, of said city; that said cotton was shipped on board said schooner in good faith, in regular form, and upon compliance with all legal requisites; that on or about the 12th August, 1863, said schooner Flying Scud was captured as a prize to the United States, by the U. S. st'r Princess Royal;
54 that at the time thereof said schooner was lying off the mouth of the Rio Grande, in the republic of Mexico, and within the jurisdiction of Mexican authority; that said schooner and cargo were regularly cleared from the custom-house at Matamoras for the port of Havana, in Cuba, and was engaged in legitimate commerce on a lawful voyage; that said capture, besides having been made in violation of the rights of a power at peace with the United States, was made without the least color of right or justice, and cannot affect the ownership of your respondent in and to said cotton.

Wherefore, this respondent prays that this hon. court would be pleased to pronounce against the libel aforesaid, so far as relates to the said thirty-eight bales of cotton, weighing 18,404 pounds, as aforesaid, the property of this respondent, and decreeing that the same may be restored to him, and to condemn the libellant in costs, and otherwise right and justice to administer in the premises.

C. ROSELINS, *Proctor for Claimant.*

Joseph Bayle, being duly sworn, deposes and says that he is the special agent and attorney in fact of Jules Aldige, a bona fide neutral alien
55 subject of the French empire, residing and doing business in Matamoras, republic of Mexico; that he is absent from the city of New Orleans, and that all the facts and allegations in the foregoing claim and answer contained are correct and true to the best of his knowledge and belief.

JOSEPH BAYLE.

Sworn to and subscribed before me this 19th September, 1863.

K. LOEW, *D'y Clk.*

Bond for costs, filed Sept. 19th, 1863.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

Know all men by these presents that we, Jules Aldige, a French subject, and resident of Matamoras, in the republic of Mexico, (p. pro Joseph Bayle, of the city of New Orleans,) claimant, as principal, and Joseph Bayle, as surety, are held and firmly bound unto the United States of America, libellant, in the sum of two hundred and fifty dollars, lawful money of the United States of America, for the payment whereof to the said United States
56 or assigns we jointly and severally bind ourselves, our heirs, executors, and administrators firmly by these presents.

Witness our respective names and seals hereunto affixed by us, at New Orleans, this 19th day of September, A. D. 1863.

Whereas an admiralty warrant was lately issued out of the honorable the district court of the United States for the eastern district of Louisiana, at the suit of the United States *vers.* the schooner Flying Scud, her tackle, apparel, and furniture and cargo, and numbered 7,678 on the docket of the said court, commanding the marshal to seize and take into his possession the said schooner and cargo, which has been seized accordingly, the said Jules Aldige having at the time, and by reason of the signing, sealing, and delivery of these presents, filed a claim to the said cargo in the clerk's office of the said court, and which claim is now of record:

Now, the condition of the above obligation is such that if the said claimant and sureties abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise, shall re-
57 main in full force and virtue.

JULES ALDIGE,
pp. JOSEPH BAYLE.
JOSEPH BAYLE.

Signed, sealed, and delivered in presence of—
K. LOEW, *D'y Clk.*

Claim and answer of J. D. Mirrielies, filed Sept. 19th, 1863.

The United States district court for the eastern district of Louisiana, in prize.

THE UNITED STATES OF AMERICA
vers.
THE SCHOONER FLYING SCUD. } No. 7,678.

To the Honorable E. H. Durell, judge of said court:

John Douglas Mirrielies, a subject of Great Britain, residing in Nassau, New Providence, agent of Benjamin Wooley Hart, and intervening for the interest of the said Benjamin Wooley Hart in the said schooner Flying Scud, claims and answers that the said schooner Flying Scud belongs solely to said Benjamin Wooley Hart, and that he, the said Benjamin Wooley Hart, is the true and bona fide owner of said schooner, and that no other person is the owner thereof. And he further claims and states that the said Benjamin Wooley Hart is a British subject, and resides at and now is in
58 London, England, and unable personally to appear herein. And he further claims that he, the said John Douglas Mirraelis, is agent of the said Benjamin Wooley Hart in the ownership of said schooner Flying Scud, and is fully authorized to appear herein on behalf of said owner, Benjamin Wooley Hart. And thereupon said claimant prays that this honorable court will be pleased to decree a restitution of said schooner Flying Scud, and otherwise right and justice to administer in the premises.

JOHN D. MIRRIELIS.

EDWARD BRIGGS, *Proctor.*

Sworn to and subscribed before me this 19th Sept., 1863.

K. LOEW, *D'y Cl'k.*

Bond for costs, filed Sept. 19th, 1863.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

Know all men by these presents that we, John Douglas Merrielis, a subject of Great Britain, residing at Nassau, New Providence, and herein acting as the agent of B. W. Hart, a British subject, and claimant herein of the schooner Flying Scud, as principal, and Magin Puing, as surety, are held and firmly bound unto the United States, libellants, in the sum of two
59 hundred and fifty dollars, lawful money of the United States of America, for the payment whereof to the said United States or assigns we jointly and severally bind ourselves, our heirs, executors, and administrators firmly by these presents.

Witness our respective names and seals hereunto affixed by us, at New Orleans, this 19th day of September, 1863.

Whereas an admiralty warrant was lately issued out of the honorable the district court of the United States of America for the eastern district of Louisiana, at the suit of the United States *vers.* the schooner Flying Scud, her tackle, apparel, furniture, and cargo, and numbered 7,678 on the docket of the said court, commanding the marshal to seize and take into his possession the said schooner and cargo, which have been seized accordingly, the said John D. Mirrielis, agent, having at the time, and by reason of the signing, sealing, and delivery of these presents, filed a claim to the said schooner in the clerk's office of the said court, and which claim is now of record:

Now, the condition of the above obligation is such that if the said claimant and surety abide by all the orders, interlocutory or final, of the court, and pay the said libellants the amount awarded by the final decree

60 rendered in the court to which the process is returnable, or in any appellate court, then the foregoing obligation is to be void; but otherwise, shall remain in full force and virtue.

JOHN D. MIRRAELIS.
MAGIN PUIG.

Signed, sealed, and delivered in presence of—
K. LOEW, *D'y C'lk.*

Order to open sealed papers, from minutes of Sept. 21, 1863.

UNITED STATES
vs.
SCH'R FLYING SCUD, &c. } No. 7,678.

On motion of the district attorney, it is ordered that he have leave to open the sealed packages on file in this cause.

Hearing and continuance, from minutes of Sept. 28, 1863.

UNITED STATES
vs.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

61 This cause was this day taken up by consent of parties—district attorney for libellants; C. Roselins for claimants of the cargo; Edward Briggs for claimant of the vessel—and the pleadings having been read, on motion of the district attorney it is ordered that so much of the claims and answers herein filed as are of the nature of an answer be considered as stricken out.

And thereupon, the district attorney, in support of the libel, presented to the court the admiralty warrant, monition, and marshal's return, the report of the prize commissioners, the testimony taken in preparatorio, and the ship's papers found on board. And after hearing the testimony of Captain M. B. Woolsey, Thos. C. Haggart, and R. L. Woolsey, now sworn and examined, the proctors for the respective claimants moved for commissioners to procure further evidence.

Whereupon, the court ordered that the further hearing of the cause be postponed; that two commissions issue, directed to the American consul at Matamoras, one to take the depositions of witnesses on behalf of the claimants of the cargo, the other to take the depositions of witnesses on behalf of the claimant of the vessel, and that thirty days be allowed for the execution and return of the same.

62 *Testimony taken in open court, and filed Sept.* 28*th*, 1863.

Capt. M. B. Woolsey sworn:

I am a commander in the United States navy. I was present at the capture of the Flying Scud. She was in American waters when captured. I had bearings of the Princess Royal at the time the Flying Scud was captured. She bore E.NE by compass. The Flying Scud was some short distance to the northward of the Princess Royal. I was in command of the Princess Royal. The Princess Royal was at that time in American waters. The Flying Scud was at the time the bearings were taken north from the Princes Royal, and in American waters. The Scud was loaded with cotton; cotton was all that we saw. I did not scrutinize, nor can I tell the kind of cotton. I do not know where she was loaded, nor where the cotton came from.

Cross-examined.

The Flying Scud, when taken, was about a mile from the Mexican shore. From the Texas shore her distance was very nearly the same. She was at anchor. She lay at anchor a little to the north from the mouth of the river.

63 I understand the distance of the mouth of the river to be about forty miles from Matamoras, but do not know exactly. The Flying Scud was to the northward of us. She was moved from her anchorage by us after we had captured her. I was particular in taking the bearings, because I did not wish to involve the U. S. government in any question of neutrality. When she was again anchored by us I did not take the bearings, but I anchored her some distance to the northward. There is nothing to prevent a vessel lying in the Brazos from being captured, except the small depth of water, which might prevent pursuit, and armed opposition from troops on the shore.

M. B. WOOLSEY, *Com'd'r.*

T. C. Haggart sworn.

I have been residing in Mexico for the last eight months. I am acquainted with the northern borders of Mexico about Matamoras. Tamaulipas is a cotton exporting State at present. It is not of domestic growth. All the cotton that is exported from the port of Matamoras is from the State of Texas. There never has been any cotton produced in the border States of Mexico for exportation to my knowledge. I know that these border States

64 have never produced cotton for exportation. I know both vessels, the Flying Scud and the Atlantic. I know the captains. I have seen the captain of the Flying Scud since the capture, at Matamoras. The cotton now on board of the Flying Scud came from Texas, or from Louisiana, or Mississippi; some place north of the Rio Grande.

(The testimony hereafter introduced is to be received against the vessel, and not against the claimant of the cargo.)

I had some conversation with the captain of the Flying Scud after his return from the mouth of the Rio Grande. I asked him why he did not go aboard of the vessel. He replied that he did not go on account of his objections to being imprisoned three or four months. He stated that all the cotton that was on board of this vessel, the Flying Scud, Capt. Boig, was directly imported, at least the papers had just passed through the custom-house. He said the seizure was illegal, &c., &c. His conversation did not convey anything particular as to where the cotton came from. His conversation conveyed the idea that the cotton was imported before exporting.

Cross-examined.

I have resided in Mexico the last eight months, the last visit. I have travelled through the States of Nueva Leon and Tamaulipas during this time. My occupation was protecting the mercantile interests of parties at the

65 North and in Monterey. I was mostly upon the border, and only went as far down as Monterey. I went as far as six hundred miles into the interior from the coast. The place was Piedras Negras. I was merely there a few days, travelling through. I have never seen a cotton-growing region of Mexico. I speak only of the border States, which do not produce cotton—from observation, as far as the two lower States are concerned. I never looked at this cotton on board the Flying Scud. I obtained a knowledge of the fact that the cotton came from north of the Rio Grande from the consignee. I saw the consignee in Matamoras. The con-

signee was a resident of Brownsville, Texas, Mr. Francisco Ituria. I know nothing of the present cargo of the Scud, or the bills of lading. I never saw the consignees of the cargo residing at Havana, unless a portion of the cargo belongs to B. Caymari. I never spoke of the cotton to any member of the firm of Coppinger & Co., or L. Will & Co., of Havana. I am well aware that cotton is produced in Mexico. I do not know that cotton seed is exported to Mexico as an article of commerce. I was not at the bar when the vessel was captured. I saw the captain at Matamoras. I saw the vessel lying off the bar before captured, but did not see her afterward.
66 At the time I saw the captain in Matamoras he said he had cleared the vessel. I have no reason to know that he was up in Matamoras to get his papers.

THOMAS C. HAGGART.

Capt. Woolsey re-examined.

The captain was not on board the Flying Scud when she was captured. I sent an officer on shore for him. I gave the officer orders to say to the captain that if he did not plead guilty he would come on board and try to clear the vessel. The officer brought back word that the captain replied that he did not intend to come on board. I further detained the vessel three days to give the captain an opportunity to produce his papers. I do not recollect that he assigned any reason for his refusal, but understood that his papers were with the British consul at Matamoras, where they should be.

M. B. WOOLSEY, *Com'd'r.*

Richard L. Woolsey sworn:

I can only confirm what the captain of the Princess Royal said. I was present at the capture. I corroberate his testimony as to the position of the vessels at the time. The Flying Scud was so far north of the line
67 that there was not room for a doubt. We took bearings when we first went there. I am captain's clerk of the Princess Royal. The captain of the Scud was on shore at the time. We sent for him to come aboard, (if he did not plead guilty,) to clear his vessel. We also notified the U. S. consul in Matamoras of the fact of the capture, and the instructions to the captain to come aboard of the vessel. We lay there three days after the capture to give him ample time to get his papers and return.

R. L. WOOLSEY.

Record of order, from minutes of Oct. 12th.

UNITED STATES
vs.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

By consent of parties, Jas. H. Titus and R. L. Woolsey were this day examined in open court upon the matters at issue in this cause, and their depositions having been reduced to writing by the clerk, were ordered to be filed as a part of the record.

68 *Testimony taken in open court, filed October 12th, 1863.*

James H. Titus sworn, says:

I live in Nassau, N. P. My business is seafaring. I lay off the mouth of the Rio Grande from the 16th of April, I think, (somewhere about about that date,) till about the 12th or 13th of August. I was on the brig Atlantic. I saw the Flying Scud, and was on board of her almost daily. They

were loading the Flying Scud while I was lying there. I was there all the time while they were loading her, and lay but a short distance from her. They loaded her with cotton. She was lying south from the Atlantic, probably nearly a half a mile; I could not tell exactly; at least 500 cables. I cannot tell woether she was in blockaded waters. We knew nothing of blockaded waters. We supposed the waters were all alike. Nobody ever boarded us during the whole time we were there. The Flying Scud was lying about in the channel. From where she lay I could see right up the river. She was in the same spot all the time. She never moved her anchors unless in the night while I was asleep. I have not the slightest doubt that she ever moved. That is the spot where she was captured.

Cross-examined by Mr. Roselins.

We very often saw vessels of war. We had an opportunity of see-
69 ing what was going on there. The captain of the Flying Scud put the captain of the gunboat Antona ashore some two weeks before the capture. I think it was before she commenced loading, but would not be positive. The cotton was brought off in Mexican lighters. I saw some of her cargo ashore at Bagdad, on the Mexican shore.

Cross-examined by Mr. E. Briggs.

She layat the mouth of the channel, and I could see up the river from her deck. I suppose she was riding there with 75 fathoms of chain ahead the usual cable length. When she was taken the wind was southward and had been so for some time. The hull of the vessel, from which I could see up the river, was the length of her chain to the northward of her anchor. The current is not always to the northward, but, with the wind to the southward, it runs to the northward.

R. L. Woolsey, sworn:

I saw the Flying Scud all the time the Princess Royal lay there—about two weeks. That was about the 1st of Sept. or along there. I saw the Flying Scud all the time we were there. She was loading when we came there. We captured her at the place where she was loading; it was
70 within waters blockaded by the United States; it was within American waters. I saw part of the cotton put on; it came off in lighters; I did not see the whole load put on.

Cross-examined by Mr. Briggs.

I cannot exactly describe her position, but I could with a chart; I knew that she was so far north of the line that there was not room for a doubt. Witness was never on board; I saw her bearings taken from the shore; I could not describe them without a chart. All the ships—some forty-five in number were lying there—were the water marks to guide us.

Cross-examined by Mr. Roselins.

The river was about 300 feet wide I should judge; the distance between her and the Mexican shore I could not tell exactly; it was a considerable distance; there were shoals between, so we could not easily get there; the distance from the Texas shore was about the same, if possible nearer the Texas than the Mexican shore; I have no opinion about the line between Texas and Mexican waters, and know nothing except what is laid down on the charts; I know the line but cannot give it exactly. I never read the

treaty. I know the line as laid down on the chart, the only guidance we have. This chart is published by authority of the Navy Department; I do not remember the year. All these things I could tell if I had the chart
71 before me.

Re-examined by Mr. Waples.

The chart which we had on board was furnished by the Navy Department about the latter part of May last.

Testimony in regard to signal distance, filed November 11th, 1863.

UNITED STATES *vers.* SCH'R FLYING SCUD. } No. 7,678.

Capt. Sam'l R. Franklin, fleet captain, western Gulf blockading squadron, being sworn, and asked what his opinion is in regard to signal distance, says: Any signals by which vessels could understand each other at sea may be by guns, sails, or lights, &c.; in case of sail signals by the royals of a ship, or the gaff top sails of a schooner.

S. R. FRANKLIN, *Fleet Captain, W. G. B. S.*

Sworn to and subscribed before me this 11th November, 1863.

ALFRED SHAW, *Special Prize Com'r.*

72 *Statement of Capt. S. R. Franklin, filed November 19th, 1863.*

U. S. STR. PENSACOLA, NEW ORLEANS, *November 18th, 1863.*

DEAR SIR: I am sorry to say, after examination, that I can give you but little information upon the subject which you desire. I find the Betsey was captured by the Antona, Capt. Miller, and reported the same day, August 6th, 1863. Commodore Bell assumed command of this squadron on the 3rd of August, 1863; consequently all captures made by the squadron since that time he shares in as the commander-in-chief. The captor makes his report to the district judge, stating time, circumstances, and all connected with capture, and in the archives of the court I should think you would get the desired information. Having obtained that information, giving the date of capture, you can determine whether Com. Bell receives the portion of commander-in-chief of the squadron by knowing whether the prize was captured on the 3rd day of August or thereafter, as he has commanded the squadron since that date. Previous to that time Admiral Farragut was in command and would share in all captures made by this squadron, except in
73 cases similar to that of the capture of the Warrior by the Gertrude on her way out from the North to join this squadron, and had not yet reported for entry in the squadron. Had she made the capture after reporting for duty, then the commander-in-chief would have shared without reference to the date of the report of the capture.

Very respectfully, &c.,

S. R. FRANKLIN, *Fleet Captain, W. G. B. S.*

Judge AUGUSTIN, *Att'y-at-law.*

True copy. November 19th, 1863.

K. LOEW, *D'y Clk.*

Petition and order to sell deck cargo, filed November 30th, 1863.

To the honorable the judge of the United States district court for the eastern district of Louisiana:

The undersigned, prize commissioners of your honorable court, respect-

fully report that they have been informed by Deputy Marshal Wyman that the deck cargo of the Flying Scud is incurring serious damage by its present situation, and that the best interests of all parties will be subserved by an early removal and sale; in this opinion they have the concurrence of the counsel for claimants.

Wherefore we recommend that an order be issued for the immediate
74 removal, and early sale of the deck cargo of said vessel.

MICHAEL HAHN,
ALFRED SHAW,
Special U. S. Prize Commissioners.

At chambers.

Ordered that the marshal discharge the deck cargo of the Flying Scud immediately and proceed to advertise and sell said deck cargo without unnecessary delay.

New Orleans, Nov. 30th, 1863.

E. H. DURELL, *Judge.*

Marshal's return, filed December 12th, '63.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

Pursuant to the within order of court I have caused 19 bales damaged cotton to be sold at public auction and to the highest bidder, at the Planters' Cotton Press, corner of Annunciation and Richard streets, on Saturday, the 5th December, 1863, at 12 o'clock m., having given three days' previous notice of the time, place, and manner of the sale in the "Era," a daily newspaper printed in New Orleans; and by G. A. Hall, U. S. prize auc-
75 tioneer, on the day of sale, and at such sale, as appears by the proces verbal of the said auctioneer hereto attached, the same was sold at the prices, in the lots, and to the purchasers, as hereinafter set forth.

Mushett, 5 bales damaged cotton, at $222 50.....	$1, 112 50
Chase, 4 bales ditto, at 247 50.....	990 00
Dunbar, 5 bales ditto, at 280 00.....	1, 400 00
Dunbar, 5 bales ditto, at 305 00.....	1, 525 00
	5, 027 50

J. Q. A. HOIT, *Dep. U. S. Marshal.*

Received from James Graham, U. S. marshal, five thousand and twenty-seven 50-100 dollars, the proceeds of the said sale, as represented by the said proces verbal, the monies to be disposed of as the court directs, and for which I have signed duplicate receipts.

ALFRED SHAW, *Clerk.*

Attached: I, G. A. Hall, U. S. prize auctioneer, do hereby certify that under and by virtue of an order of the hon. the dist. court of the United States for the eastern district of Louisiana, directed to the U. S. marshal for the district aforesaid, in suit by the United States *vers.* 19 bales damaged cotton, being a portion of the cargo of the schooner Flying Scud, No. 7,678 of the docket of said court, I offered the aforesaid nineteen bales of damag'd cotton for sale at public auction, on Saturday, the 5th day of
76 December, 1863, at twelve o'clock m., at the Planters' Press, cor. of Richard and Annunciation streets, at which sale the same was sold for cash, at the prices, in the lots, and to the purchasers as hereinafter set forth, to wit:

Mushett, 5 bales damaged cotton, at $222 50	$1, 112 50
Chase, 4 bales ditto, at 247 50	990 00
Dunbar, 5 bales ditto, at 280 00	1, 400 00
Dunbar, 5 bales ditto, at 305 00	1, 525 00
	5, 027 50

N. O., Dec'r 5th, 1863.

G. A. HALL, *U. S. Prize Auc'r.*

To JAMES GRAHAM, Esq., *U. S. Marshal.*

Auctioneer's bill.

NEW ORLEANS, *Dec. 5th*, 1863.

Mr. James Graham, U. S. marshal, to G. A. Hall, U. S. P. auc'r, DR.

To commission on sale of 19 bales damag'd cotton, being portion of cargo of sch'r Flying Scud, say 1 per cent. on $5, 027 50	$50 27
To N. O. Picayune, adv'g account	1 00
True Delta, adv'g account	1 00
Times, adv'g account	1 00
Era's adv'g account	1 50
	54 77

Rec'd payment.

77 *Appraisement of cotton, filed Dec. 12th*, 1863.

STATE OF LOUISIANA, *Port of New Orleans:*

The undersigned, inspector for underwriters of New Orleans, and general marine and river surveyor, for the inspection of vessels, steamers and cargoes, hereby certify that, instructed by the U. S. prize commissioners, I have this day held a survey on the deck load of cotton from on board of prize schooner Flying Scud, now in the Planters' Press in this city, and on a careful examination find that all, say nineteen bales, is wet and damaged by exposure, both with salt and fresh water. I therefore recommend that the said nineteen bales of cotton be sold at public auction for the benefit of whom it may concern.

N. O., Dec'r 1st, 1863.

[SEAL.] RICHARD SWAIN, *Marine Surveyor.*

Appraiser's bill, filed Dec. 12th, '63.

NEW ORLEANS, *Dec. 1st*, 1863.

Prize schooner Flying Scud to Rich'd Swain, marine surveyor, DR.

Survey on deck load of nineteen bales of cotton and certificate of same, $5 00.

Rec'd payment.

78 *Appraiser's report.—Appraisement of cotton, filed Dec. 14th, '63.*

NEW ORLEANS, *December 5th*, 1863.

SIR: We, the undersigned, duly appointed appraisers, have examined the goods imported by sch'r Flying Scud, in the Gulf of Mexico, and are of opinion that the actual market value or wholesale prices, and we do therefore appraise the same, as follows:

Damaged cotton, 19 bales.

Lot X 1, (no mark,) 5 bales damaged cotton, (30, 30, 30, 25, 35 per cent.,) per bale $200	$1,000 00
Lot X 2, 4 bales damaged cotton, (40, 25, 30, 25 per cent.,) per bale $200	800 00
Lot X 3, 5 bales damaged cotton, (40, 25, 30, 15, 30 per cent.,) per bale $250	1,250 00
Lot X 4, 5 bales damaged cotton, (30, 40, 35, 30, 25 per cent.,) per bale $250	1,250 00
19 bales	4,300 00

H. G. HEARTT,
U. S. Appraiser to U. S. Prize Commissioners, New Orleans.

New Orleans.

Appraiser's bill, filed Dec. 14.

NEW ORLEANS, *Dec'r 5th*, 1863.

In the matter of the sch'r Flying Scud and cargo, a prize, to appraiser's office, DR.

79	For appraisement of 19 bales damaged cotton, $4,300, at 1 per cent	$43 00
	For classification, arranging, marking, assorting, and sampling, $4,300, at 1 per cent	43 00
		86 00

Order cause fixed, from minutes of December 15th, 1863.

UNITED STASES *vers.* SCH'R FLYING SCUD, &c. } No. 7,678.

On motion of the district attorney, ordered that this cause be fixed for trial for Monday, 21st inst., and that the claimants be notified hereof.

Notice of trial, issued Dec. 15th, 1853.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

UNITED STATES *vers.* SCH'R FLYING SCUD, &c. } No. 7,678.

To Edw. Briggs and C. Roselins, Esquires:

You are hereby notified that the above cause has been assigned for
80 trial on Monday, 21st inst., at 10 a. m.

By order of court.

[SEAL.] K. LOEW, *D'y Cl'k.*

N. O., Dec'r 15th, 1863.

Marshal's return.

Received 16th December, 1863, and on the same day served a copy of the within on C. Roselins, esq., and one on Edw. Briggs, esq., both personally

J. Q. A. HOIT, *Dep. U. S. Marshal.*

Marshal's bill, filed Dec'r 19th, 1863.

United States district court, eastern district of Louisiana.

NEW ORLEANS, *December 18th,* 1863.

UNITED STATES
vers.
SCH'R FLYING SCUD, &c. } No. 7,678, 19 bales of cotton.

In this case I certify that the costs and charges of the U. S. marshal amount to $189 50.

J. Q. A. HOIT, *Dep. U. S. Marshal.*

	Marshal's fees	$13 90
	Pub. monition and adv. sale "Era,"	18 00
	Bill storage, Planters' Press	4 75
81	Bill board of health, quarantine	10 50
	Towage, steamer Illinois	78 12
	Keen & Stanley, unbend'g and dry'g sails	6 00
	Board harbor masters	7 96
	1 per cent. com'n on sales	50 27
		189 50

Return to commission filed February 17th, 1864.

Order to open commission, from minutes of Feb'ry 19th.

UNITED STATES
vers.
SCH'R FLYING SCUD, &c. } No. 7,678.

On motion of Edw. Briggs, esq., ordered that the sealed package containing the return to the commission issued in this case be opened.

82 *Order cause fixed, from minutes of March 7th.*

UNITED STATES
vers.
SCH'R FLYING SCUD, &c. } No. 7,678.

On motion of the district attorney, ordered that this cause be fixed for trial on Friday, the 11th inst., at 10 a. m., and that the claimants be notified thereof.

Notices of trial, issued March 7th, 1864.

United States dist. court, east'n dist. of La.

UNITED STATES
vers.
SCH'R FLYING SCUD, &c. } No. 7,678.

To C. Roselins, E. Briggs, R. Waples, and D. Augustin, Esq'res:

You are hereby notified that the above cause has been assigned for trial on Friday, 11th inst., at 10 a. m.

By order of court.

[SEAL.] K. LOEW, *D'y Cl'k.*

New Orleans, March 7th, 1864.

Marshal's return.

Received March 7th, 1864, and on the 8th day of March, 1864, served copy of notice of trial on the above-named attorneys in person.

M. EGAN, *D'y U. S. Marshal.*

N. O., March 8th, 1864.

83 *Order cause continued, from minutes of March 11th.*

UNITED STATES
vers.
SCH'R FLYING SCUD, &C. } No. 7,678.

This cause was called up for trial—district attorney for libellant, D. Augustin for captors, C. Roselins for claimants to cargo—when, on account of the illness of Edw. Briggs, the attorney of the claimants of the vessel, the cause is continued till Wednesday, 16th inst., at 10 a. m.

Return to commission for claimant of vessel, marked X.

District court of the United States of America for the eastern district of Louisiana, holding sessions in the city of New Orleans.

To the United States consul of Matamoras, Mexico:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorize and require you that you call and cause
84 to come before you and duly examine on the annexed interrogatories, on oath, touching and concerning certain matters and things in a case now depending in the said court, wherein the United States of America are libellants, and J. D. Merrielies, agent of Benjamin W. Hart, is claimant of the schooner Flying Scud; and the same examinations, so taken and reduced to writing, you certify under your hand and seal, and send enclosed to this court without delay, to be read in evidence on the trial of this cause, and send also this writ.

Witness the Honorable E. H. Durell, judge of the district court of the United States of America for the eastern district of Louisiana, at the city of New Orleans, this 29th day of September, A. D. 1863.

[SEAL.] K. LOEW, *D'y Clk.*

Interrogatories.

U. S. district court New Orleans, in prize.

UNITED STATES
vers.
SCH'R FLYING SCUD, &C., AND CARGO. } No. 7,678.

85 Interrogatories to be administered to Louis Valle, James Selkirk, M. Legrande, Julius Schleichem, John B. Boig, all now residing in Matamoras, Mexico, or at the mouth of the Rio Grande, and others there residing, to be produced, sworn, and examined in a certain prize cause now pending in the district court of the United States in and for the eastern district of Louisiana, wherein the United States is libellant, against the Flying Scud, her tackle and cargo, and Benjamin W. Hart is claimant on the part and behalf of the claimant before the commissioner, in the writ hereto annexed, named.

Interrogatory 1. What is your name, age, place of residence, business or profession?

Interrogatory 2. Do you know at what date the Flying Scud arrived at the Rio Grande, on her late voyage from Nassau, New Providence?

Interrogatory 3. Do you know whether any cruizers or armed vessels of the United States government were off the port of Matamoras or adjacent thereto when she arrived before it? If yea, where were they so cruizing or
86 anchored, and how long did they remain there?

Interrogatory 4. Do you know at what dates said Flying Scud left Matamoras, and to what point she went?

Interrogatory 5. Do you know whether she retured again to Matamoras, and if so at what date?

Interrogatory 6. Do you know whether, during the period which elapsed between her leaving Matamoras and her return, any United States cruizers or ships-of-war were off the port of Matamoras or the adjacent coast?

Interrogatory 7. Do you know whether or not said schoonor Flying Scud, during her absence from Matamoras, if you say she left that port and returned, was exposed to capture? and if yea, state in detail the facts connected with her exposure as aforesaid.

Interrogatory 8. Do you know where the said schooner Flying Scud was anchored off the bar of Matamoras when she was captured? If yea, state minutely and particularly her position and bearing.

Interrogatory 9. Do you know any other matter or thing material or necessary, or that may tend to the benefit of the claimant? If yea, state the same as fully and particularly as if you were thereunto especially interrogated.

87 Further interrogatories to be propounded to the said John B. Boig.

Interrogatory 1. Were you in any shape or way connected with said Flying Scud? If yea, state in what capacity.

Interrogatory 2. Were you on board said schooner Flying Scud when she was captured? If not, state where you were.

Interrogatory 3. Were any of said schooner's papers in your possession at the time of your capture? If yea, where were they, and what was their nature, and why were they not on board?

Interrogatory 4. Do you know any other matter or thing material or necessary, or that may tend to the benefit of the claimant, in relation to the subject-matter of these special interrogatories? If yea, state the same as fully and particularly as if you were thereunto specially interrogated.

EDWARD BRIGGS, *Proctor for Claimant.*

Reserving all legal exceptions the proctor for libellants propound
88 the following cross-interrogatories, to be answered by each the witnesses above named:

1st. Was the cargo of the Flying Scud at the time of her capture the product of Texas? State fully all that you know of the origin and history of said cargo, and all that you have heard the captain or the supercargo say about said cargo.

2nd. Was the said cargo of the vessel Flying Scud, claimed herein, bought with the proceeds of any of the cargo which the said vessel had previously landed in Texas? Was any portion of the cargo on board at the time of the capture purchased with any portion of the proceeds of goods landed by said vessel in Texas during the voyage on which she was engaged when captured, or at any previous time? State all that you know of your own personal knowledge about the purchase of the cargo and all that you have heard said.

3rd. Did any portion of the cargo on said vessel come from the town of Brazos, Texas? How far is said town from Matamoras? How far is said town from the mouth of the Rio Grande?

4th. Do you, the captain, or you, the other witnesses, know of any-
89 thing done by or with said vessel contrary to, or in violation of, the blockade of the Texas coast established by the United States? If so, state it fully.

RUFUS WAPLES,
U. S. District Attorney, East'n Dis't of Louisiana.

Depositions of witnesses produced, sworn, and examined the 29th day of January, 1864, at Matamoras, Mexico, under and by virtue of a commission issued out of the district court of the United States of America for the eastern district of Louisiana in a certain cause therein depending and at issue, wherein the United States of America are libeliants, and J D. Merrielies, agent for Benjamin W. Hart, is claimant of the schooner Flying Scud.

John B. Boig, of Bagdad, Mexico, being duly and publicly sworn, doth depose and say as follows, viz:

1. To the first interrogatory he saith: My name is John B. Boig; age, 40 years; residence, Bagdad; profession, master mariner.

2. To the second interrogatory he saith: She arrived about the 21st of March, 1863.

3. To the third interrogatory he saith: There was a United States gun-
90 boat and also a transport off the port of Matamoras when the Flying Scud arrived; part of the time cruizing and part of the time anchored; remained three or four days.

4. To the fourth interrogatory he saith: She left Matamoras about the 30th of March, 1863; went to Brazos Santiago.

5. To the fifth interrogatory he saith: She returned in about five weeks.

6. To the sixth interrogatory he saith: There were none.

7. To the seventh interrogatory he saith: I know not.

8. To the eighth interrogatory he saith: She was anchored due east from the north point of the mouth of the Rio Grande.

9. To the ninth interrogatory he saith: She was lying in neutral waters at the time of her capture.

1. To the first special interrogatory he saith: I was master of the Flying Scud.

2. To the second special interrogatory he saith: I was in Matamoras clearing the vessel at the custom-house.

3. To the third special interrogatory he saith: I had the crew list of the vessel with me, as it was necessary in order to clear regularly. The log-book was also absent from the Flying Scud. This occurred as follows, viz: I discharged the mate a few days before the vessel was captured, and as he had been accustomed to keep the log-book in his trunk during the
91 voyage, he took it ashore with him inadvertently. It has been in his possession ever since.

4. To the fourth special interrogatory he saith: I know not.

1. To the first cross-interrogatory he saith: I know not.

2. To the second cross-interrogatory he saith: I know nothing about the purchase of the outward cargo of the Flying Scud, neither have I ever heard anything said in relation to it.

3. To the third cross-interrogatory he saith: I took on board at Brazos Santiago fifteen beef hides for my own account; no other cargo was taken on board there. The distance between the two first places is about thirty miles, the latter about nine miles.

4. To the fourth cross-interrogatory he saith: I know not.

JOHN B. BOIG.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this twenty-ninth day of January, 1864, before
[SEAL.] L. PIERCE, JR., *U. S. Consul.*

92 C. A. Hanner, of Bagdad, Mexico, being duly and publicly sworn, doth depose and say as follows, viz:

1. To the first interrogatory he saith: My name is C. A. Hanner; age, 25 years; residence, Bagdad; profession, mariner.
2. To the second interrogatory he saith: She arrived the 22nd of March, 1863.
3. To the third interrogatory he saith: There was a United States gunboat and transport off the port of Matamoras when she arrived. They were both anchored and cruizing; remained two or three days.
4. To the fourth interrogatory he saith: She left Matamoras about the 7th day of April, 1863; went to Brazos Santiago.
5. To the fifth interrogatory he saith: She returned about the 5th day of May, 1863.
6. To the sixth interrogatory he saith: I know not.
7. To the seventh interrogatory he saith: I know not.
8. To the eighth interrogatory he saith: The mouth of the Rio Grande was due west from our anchorage.
9. To the ninth interrogatory he saith: I had the log-book of the Flying Scud in my trunk, where I had been in the habit of keeping it, and
93 when I was discharged from the Flying Scud, (some few days before her capture,) I took the said log-book on shore in my trunk, without thinking, and have since had it in my sole possession until the 26th day of January, 1864, when I delivered it to Mr. J. D. Merrielies; I was mate of said vessel; the log-book was delivered to Mr. J. D. Merrielies in the presence of the U. S. consul.

1. To the first cross-interrogatory he saith: I know not.
2. To the second cross-interrogatory he saith: I know not.
3. To the third cross-interrogatory he saith: The distance from Matamoras to Brazos is about thirty miles.
4. To the fourth cross-interrogatory he saith: I know not.

CHARLES A. HANNER.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this twenty-ninth day of January, 1864, before
[SEAL.] L. PIERCE, JR., *U. S. Consul.*

T. W. Bunker, of Bagdad, Mexico, being duly and publicly sworn, doth depose and say as follows, viz:

1. To the first interrogatory he saith: My name is T. W. Bunker;
94 age, 35 years; residence, Bagdad; business, lighterman.
2. To the second interrogatory he saith: I know not.
3. To the third interrogatory he saith: I know not.
4. To the fourth interrogatory he saith: She went to Brazos Santiago; don't know at what date.
5. To the fifth interrogatory he saith: She returned to Matamoras; don't know at what date.
6. To the sixth interrogatory he saith: I know not.
7. To the seventh interrogatory he saith: I know not.
8. To the eighth interrogatory he saith: I know not.
9. To the ninth interrogatory he saith: It is impossible for a vessel to keep a fixed position off the mouth of the Rio Grande during a heavy blow; at such times the anchors will drag. I piloted the Flying Scud from Matamoras to Brazos Santiago, at the time mentioned in answer No. 4.

1. To the first cross-interrogatory he saith: I know nothing of where the cargo was produced.

2. To the second cross-interrogatory he saith: I have never heard anything said which induced me to believe that said cargo was bought with the proceeds of cargo landed in Texas.

3. To the third cross-interrogatory he saith: I don't know that any portion of her cargo came from Brazos Santiago.

4. To the fourth cross-interrogatory he saith: I know of nothing
95 done by said vessel in violation of the blockade of the Texas coast, established by the United States.

T. W. BUNKER.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this twenty-ninth day of January, 1864, before

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Thomas W. Stanley, of Bagdad, Mexico, being duly and publicly sworn, doth depose and say as follows, viz:

1. To the first interrogatory he saith: My name is Thomas W. Stanley; age, 30 years; residence, Bagdad; profession, lighterman.

2. To the second interrogatory he saith: I know not.

3. To the third interrogatory he saith: I think there was one gunboat off the port; she remained there two or three days.

4. To the fourth interrogatory he saith: I know not.

5. To the fifth interrogatory he saith: I know not.

6. To the sixth interrogatory he saith: I know not.

7. To the seventh interrogatory he saith: I know not.

8. To the eighth interrogatory he saith: She laid to the southward of the bar, in Mexican waters.

96 9. To the ninth interrogatory he saith: I believe the schooner Flying Scud was engaged in a lawful trade.

1. To the first cross-interrogatory he saith: I know not.

2. To the second cross-interrogatory he saith: I know not.

3. To the third cross-interrogatory he saith: I know not.

4. To the fourth cross-interrogatory he saith: I know not.

T. W. STANLEY.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this twenty-ninth day of January, 1864, before

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Charter-party, offered in evidence March 16th, 1863.

[Seal of U. S. consul.] This charter-party of freightment, made and completed the fifteenth day of July, in the year of our Lord eighteen hundred and sixty-three, between John D. Merrielies, of the vessel called the Flying Scud, (English,) of the burthen of 141 tons, or thereabouts, of one part, and Bernardo Caymari, of Matamoras, Mexico, of the other part, witnesseth, that the said party of the first part, for himself and the owners of said
97 vessel, for the consideration hereinafter mentioned, have hired to freight, and by these presents do hire and freight, the said vessel, her apparel and furniture, for a voyage to commence at the port of Matamoras, where the master shall receive and take on board (in the usual manner in said port) as full a cargo of cotton as said vessel can with safety stow under deck, and immediately after being so loaded the master shall with the first favorable opportunity proceed with the vessel and said cargo direct to the

port of Havana, and, upon her arrival there, make a safe delivery of the said cargo, in the customary manner in said port, to the said Bernardo Caymari, his agents or assignees, and so end the voyage, the damages of the seas, restraints of rulers, and other unavoidable circumstances always excepted.

In consideration whereof, the said Bernardo Caymari promises and agrees to deliver said cargo at the port of Matamoras, Mexico, as aforesaid, and to receive the same at the port of Havana, Cuba, as aforesaid, paying or caused to be paid to the said , his agents or assignees, in full for freight hire of said Flying Scud, for the voyage aforesaid, two dollars for each and every one hundred pounds of cotton that may be shipped under deck, in lawful
98 money, with twenty-five dollars for each and every day that said vessel may be detained by freight, or over and above twenty days allowed for loading, commencing the lay day on the day that said Mr. Merrielies notifies B. Caymari that the vessel is ready to receive freight and cargo, the whole amount to be considered due and payable on the landing of said cargo in Havana, Cuba. It is further agreed between the said parties that cotton shall be delivered in good shipping order to the said vessel outside the bar at the mouth of the river. For the true and faithful fulfilment of this agreement, according to the true intent and meaning thereof, the said Mr. Merrielies binds the said vessel, her tackle and appurtenances, and the freight to be carried, and the said freightor binds the cargo laded and to be laden, each to the other, in the penal sum of two thousand dollars, firmly by these presents.

In witness whereof, the said parties have hereunto set their hands and seals the day and year aforesaid.

B. CAYMARI.
JOHN D. MERRIELIES.

Signed and delivered in presence of—
A. J. GOMILLA.

99 *Return to commission for claimants of cargo, on claim of Bernardo Caymari, marked E.*

Commission.

District court of the United States of America for the eastern district of Louisiana, holding sessions in the city of New Orleans.

To the United States consul at Matamoras, Mexico:

Know ye that, reposing special trust and confidence in your integrity and ability, we hereby authorise and require you that you call and cause to come before you , and duly examine on the annexed interrogatories, on oath, touching and concerning certain matters and things in a case cow depending in the said court, wherein the United States of America are libellants and Bernardo Caymari, Lopez y Santos Coy, and Jules Aldige are claimants of the cargo of the schooner Flying Scud, and the same examinations, so taken, and reduced to writing, you certify under your
100 hand and seal and send enclosed to this court without delay, to be read in evidence on the trial of said cause, and send also this writ.

Witness the Honorable E. H. Durell, judge of the district court of the United States of America for the eastern district of Louisiana, at the city of New Orleans, this 29th day of September, A. D. 1863.

[SEAL.] K. LOEW, *D'y Clk.*

Interrogatories.

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
SCH'R FLYING SCUD, &C.

Interrogatories propounded to Bernardo Caymari, Gonzalo de Goicouria, Francisco Romagosa, and others, witnesses examined in behalf of Bernardo Caymari, a claimant of 137 bales of cotton, constituting part of the cargo of the schooner Flying Scud, whose testimony is taken by virtue of the annexed commission, and is to be read in evidence on the trial of this cause.

1. What is your name, where do you reside, and what is your occupation?

101. 2. Are you or not acquainted with the claimant Bernardo Caymari? If yea, how long have you know him and where? what is his business and how long has he been so engaged? what is his standing and where is he engaged in business?

3. Have you, or have you not, any knowledge of one hundred and thirty-seven bales of cotton shipped on board the schooner Flying Scud by said Bernardo Caymari at the port of Matamoras about the third of August, 1863? If yea, state fully and in detail all you may know in relation thereto. How did said cotton come into possession of said Bernardo Caymari? when and where? Did he or not buy the same? if yea, where and from whom was said sale effected? what was the price paid? where was said cotton when the same was purchased by said Bernardo Caymari? Was said cotton purchased on Mexican soil or on United States soil? Was said cotton run over from Texas into Matamoras or not? If yea, was said Bernardo Caymari in any manner whatever connected with said transaction?

4. This is a case in which Bernardo Caymari claims one hundred and thirty-seven bales of cotton on board the schooner Flying Scud, captured as a prize to the United States. The prosecution seeks to defeat his
102 claim for restitution on the ground that said cotton had been run into Matamoras from Texas, and said Bernardo Caymari, the claimant, is sought to be suspiciously connected with said illegal traffic. You will please state, without further interrogation, and the same as if specially interrogated in relation thereto, any fact, circumstance, or particular connected therewith which may be of advantage to said claimant.

C. ROSELINS.

Reserving all legal exceptions, the attorney for libellant propounds the following cross-interrogatories:

1st. Of what country are you a citizen? Have you ever been engaged in any hostile act against the United States, or in aiding or abetting others so engaged?

2nd. Are the claimants herein related to you in any way? Have you any partnership or interest in their business? Are you directly or indirectly interested in the cotton claimed herein, or in the proceeds thereof? Have the claimants herein any business house, or partner or partners in
103 Texas, or who do business in Texas, or who have business in Texas within one year past? Have they a warehouse in the town of Brownsville, Texas, or in the town of Brazos, Texas? Have they received the cotton seized in this case on board the Flying Scud from any warehouse in Texas, or from any other place in Texas?

3rd. If you have stated, in answer to direct interrogatory No. 3, that you have any knowledge of the cotton claimed herein, state whether you speak

of your own personal knowledge. Have you ever seen this identical cotton? How do you know the time and manner in which the claimants came in possession of this cotton? If you state that it was purchased on Mexican soil in answer to third direct interrogatory, state precisely the place at which it was purchased, the price paid. Was it purchased of a resident of Mexico or a resident of Texas? Was this cotton the product of this year's crop or of some former year? Was it brought from Texas since the establishment of the blockade? Was it brought from Texas since commercial intercourse was prohibited by the government of the United States with all insurrectionary districts?

104 4th. Have you ever heard the claimant herein speak of having obtained this cotton from Texas, either directly or indirectly, or of having shipped it on board the Flying Scud, or of having assumed the ownership of it to give it a neutral character? State fully all that you may know advantageous to the United States in this case.

RUFUS WAPLES,
U. S. District Attorney for the Eastern District of Louisiana.

Depositions of witnesses produced, sworn, and examined the twentieth day of October, in the year one thousand eight hundred and sixty-three, at Matamoras, Mexico, under and by virtue of a commission issued out of the district court of the United States of America for the eastern district of Louisiana in a certain cause therein depending and at issue, wherein the United States of America are libellants and Bernardo Caymari is claimant of one hundred and thirty-seven bales of cotton, constituting part of the cargo of the schooner Flying Scud.

Gonzalo de Goicouria, of Matamoras, Mexico, being duly and pub-
105 licly sworn, doth depose and say as follows, viz:

First. To the first interrogatory he saith: My name is Gonzalo de Goicouria; reside in Matamoras, Mexico; occupation, merchant.

Second. To the second interrogatory he saith: I am acquainted with Bernardo Caymari; have known for three years in Havana and New York. He is engaged in mercantile business in New York; was engaged for a short time in the same business in Matamoras. I regard him as a merchant in good standing.

Third. To the third interrogatory he saith: I know that Bernardo Caymari shipped on board the schooner Flying Scud one hundred and thirty-seven bales of cotton, which cotton was purchased by said Bernardo Caymari from Mess. Gomila & Co., merchants, established and doing business in Matamoras. Never knew said Bernardo Caymari to be in any manner connected with bringing cotton from or doing business with Texas.

Fourth. To the fourth interrogatory he saith: I know that said Bernardo Caymari purchased said one hundred and thirty-seven bales of cotton from Messrs. Gomila & Co., of this city, in good faith.

106 First. To the first cross-interrogatory he saith: I am a citizen of Spain. Have never been engaged in any hostile act against the United States or aided any one in so doing.

Second. To the second cross-interrogatory he saith: I am not related to the claimant. Have no partnership or interest in his business or in said cotton. I know that the claimant has no partner or partners, warehouse or warehouses, or business of any kind in Texas. The one hundred and thirty-seven bales of cotton in question, shipped on board the schooner Flying Scud, were taken from the cotton press in Matamoras.

Third. To the third cross-interrogatory he saith: I know that the aforesaid one hundred and thirty-seven bales of cotton was produced from residents

of Mexico. I know nothing of where the cotton was purchased or when it was brought to Matamoras.

Fourth. To the fourth cross-interrogatory he saith: I know the said one hundred and thirty-seven bales of cotton were bought by Bernardo Caymari and paid for in specie.

GONZALO DE GOICOURIA.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this fourteenth day of January, 1864, before

L. PIERCE, JR., *U. S. Consul.*

107 Andrew Crosas, of New York, (temporarily in Matamoras, Mexico, deing duly and publicly sworn, doth depose and say as follows, viz:

First. To the first interrogatory he saith: My name is Andrew Crosas; reside in New York City; occupation, merchant.

Second. To the second interrogatory he saith: I am acquainted with Bernardo Caymari; have known him for the past five years in New York. He is engaged in the shipping and commission business in New York City. I regard him to be a merchant in good standing.

Third. To the third interrogatory he saith: I know that said Bernardo Caymari shipped on board the schooner Flying Scud one hundred and thirty-seven bales of cotton, which cotton was purchased by said Bernardo Caymari from Messrs. Gomila & Co., merchants, established and doing business in Matamoras. Never knew said Bernardo Caymari to be in any manner connected with bringing cotton from or doing business with Texas.

Fourth. To the fourth interrogatory he saith: I know that said Bernardo Caymari purchased said one hundred and thirty-seven bales of cotton from Messrs. Gomila & Co., of this city, in good faith.

108 First. To the first cross-interrogatory he saith: I am a citizen of the United States of America. Have never been engaged in any hostile act against the United States or aided any one in so doing.

Second. To the second cross-interrogatory he saith: I am not related to the claimant. Have no partnership or interest in his business or in said cotton. The claimant has no partner or partners, warehouse or warehouses, or business of any kind in Texas. The one hundred and thirty-seven bales of cotton in question, shipped on board the schooner Flying Scud, were taken from the cotton press in Matamoras.

Third. To the third cross-interrogatory he saith: I know that the aforesaid one hundred and thirty-seven bales of cotton were purchased from residents of Mexico. I know nothing of where the cotton was produced, or when it was brought to Matamoras.

Fourth. To the fourth cross-interrogatory he saith: I know the said one hundred and thirty-seven bales of cotton was by Bernardo Caymari and paid for in specie.

A. CROSAS.

109 Examination taken, reduced to writing, and by the witness subscribed and sworn to this fourteenth day of January, 1864, before

L. PIERCE, JR., *U. S. Consul.*

Return to commission on claim of Lopez y Santos Coy, marked N.

Interrogatories.

United states district court for the eastern district of Louisiana.

UNITED STATES
vers.
SCH'R FLYING SCUD, &c.

Interrogatories propounded to Lopez and Santos Coy, Gonzalo de Goicouria, Francisco Romagosa, and others, witnesses examined in behalf of said Lopez and Santos Coy, claimants of thirty bales of cotton, constituting part of the cargo of the schooner Flying Scud, whose testimony is taken by virtue of the annexed commission and is to be read in evidence on the trial of this case.

110 1. What is your name, where do you reside, and what is your occupation?

2. Are you, or not, acquainted with the claimants Lopez and Santos Coy? If yea, how long have you known them and where? What is their business and how long have they been so engaged? What is their standing and where are they engaged in business?

3. Have you, or have you not, any knowledge of thirty bales of cotton shipped on board the schooner Flying Scud by said Lopez and Santos Coy at the port of Matamoras about the 3rd August, 1863? If yea, state fully and in detail all you may know in relation thereto. How did said cotton come into the possession of said Lopez y Santos Coy? when and where? Did they or not buy the same? if yea, where and from whom was said sale effected? what was the price paid? Where was said cotton when the same was purchased by said Lopez and Santos Coy? Was said cotton purchased on Mexican soil or on United States soil? Was said cotton run over from Texas into Matamoras or not? If yea, were said Lopez and Santos Coy in any manner whatsoever connected with said transaction?

4. This is a case in which Lopez and Santos Coy claim thirty bales
111 of cotton on board the schooner Flying Scud, captured as a prize to the United States. The prosecution seeks to defeat their claim for restitution on the ground that said cotton had been run into Matamoras from Texas, and said Lopez and Santos Coy, the claimants, are sought to be suspiciously connected with said illegal traffic. You will please state, without further interrogation and the same as if specially interrogated in relation thereto, any fact, circumstance, or particular connected therewith which may be of advantage to said claimants.

C. ROSELINS.

Reserving all legal exceptions the attorney for libellant propounds the following cross-interrogatory:

1st. Of what country are you a citizen? Have you ever been engaged in any hostile act against the United States, or in aiding or abetting others so engaged?

2d. Are the claimants herein related to you in any way? Have you any interest or partnership in their business. Are you directly or in-
112 directly interested in the cotton claimed herein, or in the proceeds thereof? Have the claimants herein any business house or partner or partners in Texas or who have done business in Texas within one year past? Have they a warehouse in the town of Brazos, Texas, or in the town of Brownsville, Texas? Have they recieved the cotton seized in this case on board the Flying Scud from any warehouse in Texas, or from any other place in Texas?

3d. If you have stated in answer to direct interrogatory number three that you have any knowledge of the cotton claimed herein, state whether you speak of your own personal knowledge. Have you ever seen this identical cotton? How do you know the time and manner in which the claimants came in possession of this cotton? If you state that it was purchased on Mexican soil in answer to the third direct interrogatory, state precisely the place at which it was purchased. Were you present at the sale, and did you see the price paid? Was it purchased of a resident of Mexico, or of a resident of Texas? Was this cotton the product of this year's crop or of some former year? Was it brought from Texas since the establishment of the blockade? Was it brought from Texas since commercial in-
113 tercourse was prohibited by the government of the United States with all insurrectionary districts.

4th. Have you ever heard the claimants herein speak of having obtained this cotton from Texas, either directly or indirectly, or of having shipped it on board the Flying Scud, or of having assumed the ownership of it to give it a neutral character? State fully all that you may know advantageous to the United States in this case.

RUFUS WAPLES,
U. S. Dist. Attorney for the Eastern Dist. of Louisiana.

Depositions of witnesses produced, sworn, and examined the seventeenth day of December, in the year one thousand eight hundred and sixty-three, at Matamoras, Mexico, under and by virtue of a commission issued out of the district court of the U. S. of America for the eastern district of Louisiana, in a certain cause therein depending and at issue, wherein the United States of America are libellants, and Lopez and Santos Coy are claim-
114 ants of thirty bales of cotton constituting part of the cargo of the schooner Flying Scud.

Pedro M. Lopez of Brownsville, Texas, being duly and publicly sworn, doth depose and say as follows, viz:

1st. To the first interrogatory he saith: My name is Pedro M. Lopez; I reside in Brownsville, Texas; by occupation a merchant.

2d. To the second interrogatory he saith: I am one of the claimants; am engaged in business in Brownsville, Texas. The house of which I am a member has been established for about a year past, in Brownsville, Texas. For two years before that period was transacting business in Matamoras, Mexico.

3d. To the third interrogatory he saith: The thirty bales of cotton in question were shipped by our house on board the schooner Flying Scud at the port of Matamoras, about the third day of August, 1863. The said thirty bales of cotton were bought of Rafael Cervantes, a merchant, established and doing business in this port of Matamoras. Thirty cents was the price (per pound) paid for the said cotton. The said thirty bales of cotton
115 was at the time of its purchase lying at what is known as Freeport, in Matamoras, Mexico. Do not know whether said cotton was run over from Texas or not.

4th. To the fourth interrogatory, he saith: The said thirty bales of cotton were purchased in good faith of Rafael Cervantes, of Matamoras, Mexico.

1st. To the first cross-interrogatory he saith: I am a citizen of the United States of America; neither the house of Lopez and Santos Coy, of which I am a member, nor have I myself, ever been engaged in any hostile act against the United States, or aiding any one in so doing.

2d. To the second cross-interrogatory he saith: I am a partner in the house of Lopez and Santos Coy; our firm has a business house in Brownsville,

Texas. The house has been established there for about one year past. The thirty bales of cotton in question were not received from any warehouse or place in Texas, but from Freeport, in Matamoras, and sent from there direct to the vessel, at Boca del Rio.

3d. To the third cross-interrogatory he saith: The said thirty bales
116 of cotton were purchased of a resident and citizen of Mexico. I know nothing of when or where the cotton was produced, or at what time it was brought to Matamoras.

4th. To the fourth cross-interrogatory he saith: The said thirty bales of cotton was bought by us in good faith of Rafael Cervantes, of Matamoras, Mexico, and paid for in specie.

PEDRO M. LOPEZ.

Examination taken, reduced to writing and by the witness subscribed and sworn to this twelfth day of January, 1864, before

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Rafael Cervantes, of Matamoras, Mexico, being duly and publicly sworn, doth depose and say as follows, viz:

1st. To the first interrogatory he saith: My name is Rafael Cervantes; reside in Matamoras, Mexico; by occupation, a merchant.

2d. To the second interrogatory he saith: I am acquainted with the claimants, Lopez and Santos Coy. Have known them for the past three
117 years. During the past year their house of business has been established in Brownsville; for two years previous, in Matamoras. I regard them as merchants in good standing.

3d. To the third interrogatory he saith: I have not any knowledge of thirty bales of cotton shipped on board the schooner Flying Scud by Lopez and Santos Coy. Messrs. Lopez and Santos Coy bought thirty bales of cotton from me, about the first of July, 1863, which came consigned to me from Laredo, Mexico. They paid me at the rate of thirty cents per pound for it. The said thirty bales of cotton were purchased of me on this, the Mexican, side of the river, and also delivered from Freeport, on this side.

4th. To the fourth interrogatory he saith: I have never known said Lopez and Santos Coy to be in any manner connected with running cotton from Texas into Mexico, since the commencement of the rebellion.

1st. To the first cross-interrogatory he saith: I am a citizen of Mexico. Have never been engaged in any hostile act against the United States, or aided or abetted any one so engaged.

118 2d. To the second cross-interrogatory he saith: I am not in any way related to the claimants. Have no interest or partnership in their business. Have no interest in the cotton in question, either directly or indirectly. The said Lopez and Santos Coy have a business house in Brownsville, Texas; said house has been established there for about a year past.

3d. To the third cross-interrogatory he saith: I know not.

4th. To the fourth cross-interrogatory he saith: I know not.

R. CERVANTES.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this twelfth day of January, 1864, before

L. PIERCE, JR., *U. S. Consul.*

Josiah Moorhead, of Matamoras, Mexico, being duly and publicly sworn, doth depose and say as follows, viz:

1st. To the first interrogatory he saith: My name is Josiah Moorhead; reside in Matamoras, Mexico; by occupation, a merchant.

118 2d. To the second interrogatory he saith: I am acquainted with the claimants, Lopez and Santos Coy. Have known them for the past three years. During the past year their house of business has been established in Brownsville, Texas; for two years previous in Matamoras, Mexico. I regard them as merchants in good standing; and know Mr. Pedro M. Lopez, of the firm of Lopez and Santos Coy to be a good and loyal citizen of the United States of America.

3d. To the third interrogatory he saith: I know not.

4th. To the fourth interrogatory he saith: I have not known said Lopez and Santos Coy to be in any manner connected with running cotton from Texas into Mexico since the commencement of the rebellion.

1st. To the first cross-interrogatory he saith: I am a citizen of the United States of America. Have never been engaged in any hostile act against the United States, or aided or abetted any one so engaged.

2d. To the second cross-interrogatory he saith: I am not in any
120 way related to the claimants. Have no interest or partnership in their business. Have no interest in the cotton in question, either directly or indirectly. The said Lopez and Santos Coy have a business house in Brownsville, Texas; said house has been established there for about one year past.

3d. To the third cross-interrogatory he saith: I know not.

4th. To the fourth cross-interrogatory he saith: I know not.

JOSIAH MOORHEAD.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this twelfth day of January, 1864, before

L. PIERCE, JR., *U. S. Consul.*

Return to commission on claim of Jules Aldige, marked K.

United States dist. court, eastern dis't of Louisiana.

UNITED STATES
vers.
SCH'R FLYING SCUD, &c.

121 Interrogatories propounded to Jules Aldige and other witnesses examined in behalf of said Jules Aldige, claimant of thirty-eight bales of cotton, constituting part of the cargo of the schooner Flying Scud, whose testimony is taken by virtue of the annexed commission, and is to be read in evidence on the trial of this case.

1. What is your name, where do you reside, and what is your occupation?

.2 Are you or not acquainted with the claimant Jules Aldige? If yea, how long have you known him, and where? What is his business, and how long has he been so engaged? What is his standing, and where is he engaged in business?

.3 Have you or have you not any knowledge of thirty-eight bales of cotton shipped on board the schooner Flying Scud, by said Jules Aldige, at the port of Matamoras, about the 6th August, 1863? If yea, state and fully and in detail all you may know in relation thereto. How did said cotton come into the possession of said Jules Aldige? Was said cotton purchased on Mexican or on United States soil? Was said cotton run over from Texas into Matamoras or not? If yea, was said Jules Aldige in any man-
122 ner whatsoever connected with said transaction?

4. This is a case in which Jules Aldige claims thirty-eight bales of cotton on board the schooner Flying Scud, captured as a prize to the United States, &c. The prosecution seeks to defeat his claim for restitution

on the ground that said cotton had been run into Matamoras from Texas, and said Jules Aldige, the claimant, is sought to be suspiciously connected with said illegal traffic. You will please state without further interrogation, and the same as if specially interrogated in relation thereto, any fact, circumstance, or particular connected therewith which may be of advantage to said claimant.

C. ROSELINS.

Reserving all legal exceptions, the attorney for libellant propounds the following cross-interrogatories:

1st. Of what country are you a citizen? Have you ever been engaged in any hostile act against the United States, or in aiding or abetting others so engaged?

123 2d. Are the claimants herein related to you in any way? Have you any interest or partnership in their business? Are you directly or indirectly interested in the cotton claimed herein, or in the proceeds thereof? Have the claimants herein any business house, or partner or partners in Texas, or who do business in Texas, or who have done business in Texas within one year past? Have they a warehouse in the town of Brownsville, Texas, or in the town of Brazos, Texas? Have they received the cotton seized in this case on board the Flying Scud from any warehouse in Texas, or from any other place in Texas?

3rd. If you have stated in answer to direct interrogatory number three that you have any knowledge of the cotton claimed herein, state whether you speak of your own personal knowledge? Have you ever seen this identical cotton? How do you know the time and manner in which the claimants came in possession of the cotton? If you state that it was purchased on Mexican soil in answer to the third direct interrogatory, state pre-

124 cisely the place at which it was purchased. Were you present at the sale, and did you see the price paid? Was it purchased of a resident of Mexico or of a resident of Texas? Was the cotton the product of this year's crop or of some former year? Was it brought from Texas since the establishment of the blockade? Was it brought from Texas since commercial intercourse was prohibited by the government of the United States with all insurrectionary districts?

4th. Have you ever heard the claimants herein speak of having obtained this cotton from Texas, either directly or indirectly, or of having shipped it on board the Flying Scud, or of having assumed the ownership of it to give it a neutral character? State fully all you know advantageous to the United States in this case.

RUFUS WAPLES,
U. S. District Attorney East'n Dist. of Louisiana.

Depositions of witnesses produced, sworn, and examined the twenty-second day of October, in the year one thousand eight hundred and sixty-

125 three, at Matamoras, Mexico, under and by virtue of a commission issued out of the district court of the United States of America for the eastern district of Louisiana in a certain cause therein depending and at issue, wherein the United States of America are libellants and Jules Aldige is claimant of thirty-eight bales of cotton, constituting part of the cargo of the schooner Flying Scud.

Miguel Suzenean, of Matamoras, Mexico, being duly and publicly sworn, doth depose and say as follows, viz:

First. To the first interrogatory he saith: My name is Miguel Suzenean; I reside in Matamoras, Mexico; my occupation is that of a merchant.

Second. To the second interrogatory he saith: I am acquainted with Jules

Aldige; I have known him for the last year in Matamoras; he is engaged in mercantile business in Matamoras, and has been so engaged for the past year; he was formerly engaged in business in New Orleans; his standing is good.

Third. To the third interrogatory he saith: I know nothing of the thirty-eight bales of cotton in question.

126 First. To the first cross-interrogatory he saith: I am a citizen of Mexico; I have never been engaged in any hostile act against the United States, or aided any one in so doing.

Second. To the second interrogatory he saith: I am not related to the claimant; I have no partnership or interest in his business; I know that the claimant has no partner or partners, warehouse or warehouses, or business of any kind in Texas.

M. SUZENEAN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this eleventh day of January, 1864, before

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Theodore Herrmann, (of Burchardt & Co., succ's,) of Matamoras, Mexico, being duly and publicly sworn, doth depose and say as follows, viz:

First. To the first interrogatory he saith: My name is Theodore Herrmann; reside in Matamoras, Mexico.

127 Second. To the second interrogatory he saith: I am acquainted with Jules Aldige; have known him for the past eight months in Matamoras; he is engaged in mercantile business in Matamoras. I regard him as a merchant in good standing.

Third. To the third interrogatory he saith: I know that said Jules Aldige purchased said thirty-eight bales of cotton, and told me that he shipped it on the schooner Flying Scud; do not know of whom or where he bought the said thirty-eight bales of cotton.

First. To the first cross-interrogatory he saith: I am a citizen of Germany. I have never been engaged in any hostile act against the United States of America, or aided any one in so doing.

Second. To the second cross-interrogatory he saith: I am not related to to the claimant; have no partnership or interest in his business; the claimant has no partner or partners, warehouse or warehouses, or business of any kind in Texas.

Third. To the third cross-interrogatory he saith: I do not know where the said thirty-eight bales of cotton were produced, or when they were brought to Matamoras.

128 To the fourth cross-interrogatory he saith: I know the said thirty-eight bales of cotton were purchased by the said Jules Aldige, and paid for in specie.

THEOD. HERRMANN.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this eighth day of January, 1864, before

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Leon Soulie, of Matamoras, Mexico, being duly and publicly sworn, doth depose and say as follows, viz:

First. To the first interrogatory he saith: My name is Leon Soulie; reside in Matamoras, Mexico; occupation, cotton broker.

Second. To the second interrogatory he saith: I am acquainted with Jules Aldige; have known him for about three years; he is a commission merchant in Matamoras; I regard him as a merchant in good standing.

Third. To the third interrogatory he saith: I know that said Jules
129 Aldige purchased said thirty-eight bales of cotton, and told me that he shipped it on the schooner Flying Scud; I sampled the said cotton for him; do not know of whom he bought the cotton.

Fourth. To the fourth interrogatory he saith: I know that said Jules Aldige purchased said thirty-eight bales of cotton on Mexican soil in good faith.

First. To the first cross-interrogatory he saith: I am a citizen of France; have never been engaged in any hostile act against the United States, or aided any one in so doing.

Second. The second cross-interrogatory he saith: I am not related to the claimant; have no partnership or interest in his business or in his cotton. The claimant has no business connections of any kind in Texas. The thirty-eight bales of cotton in question were taken from the cotton yard in Matamoras.

Third. To the third cross-interrogatory he saith: I know nothing of where the said thirty-eight bales of cotton were produced, or when it was brought to Matamoras.

130 Fourth. To the fourth cross-interrogatory he saith: I know that the said thirty-eight bales of cotton were bought by Jules Aldige on Mexican soil in good faith.

L. SOULIE.

Examination taken, reduced to writing, and by the witness subscribed and sworn to this twenty-seventh day of October, 1863, before

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Document T, filed March 16th, 1864.—Bill of lading.

Shipped, in good order and condition, by J. Aldige on board the English schooner called the Flying Scud, whereof is master, now lying at the port of Matamoras and bound for Havana, to say thirty-eight bales cotton, weighing in all eighteen thousand four hundred and four pounds, being marked and numbered as in the margin, and are to be delivered in like good order and condition at the port of Havana, (the dangers of the seas and all other dangers and accidents excepted,) unto Mr. P. Martin or his
131 assigns, he or they paying freight for the said at the rate of two and a half cents, with 5 per cent. primage.

S G. 36 bales.
L, 2 bales.
17,534 lbs.
870

38 B–c. 18,404 lbs.

In witness whereof, the master or purser of the said vessel hath affirmed to four bills of lading, all of this tenor and date, one of which being accomplished the others to stand void. Ship not accountable for any kind of damage. Weights, contents and quality unknown.

Dated in Matamoras the 6th day of August, 1863.

JOHN B. BOIG.

Document O, filed March 16th, 1864 —Consul's certificate.

El administrador y contador de esta aduana maritima y fronteriza:

Certificamos que con fecha 22 de Julio pp do se le ha otorgado por esta aduana al Sr. Dn. J. Aldige un permiso de treinta y ocho pacas de algodon, para ser embarcados en la goleta Inglesa Flying Seaud, con destino al puerto de la Habana.

Y a pedimento del interazado y para los usos que le convingan se le espida el presente en H. d Matamoras a 17 de Agosto de 1863.

ANTO. GUYMAN.

Franco B. Arzarmendo.

132 VICE CONSULAT DE FRANCE, MATAMORAS.

Un pour la legalisation de la signature Francisco Arzamendo es dessus appelle.

Matamoras, le 17 Aout, 1863.

Le vice consul de France,

[SEAL.] J. J. BRUZON.

Document P, filed March 16th, 1864.

Compte de 38 balles de coton, expediees par goelette Anglaise Flying Scud, en destination de la Havana, a la consignation de Mr. Martin.

S G—36 balles coton pesans ensembles, 17,534 lbs., a 25½c.....		$4,471 17
L—2 balles coton pesans ensembles, 870 lbs., a 26c.....		226 20
		4,697 37
Frais:		
Travailleins divers.....	$5 00	
Fret de 38 b. c. a la boca.....	81 00	
Panseu.....	15 00	
Lighterage de 38 b. c.....	57 00	
Depenses a la Presse.....	192 00	
		350 00
		5,047 37
Com'n 2½ per cent.....		126 18
		5,173 55
Frais occasionnees par la saisre de namse paprier trimbie pour le duplicate du permis douaue.....		$0 25
Protet four devant le consul Francais, procuration spe-		
133 ciale par devant le consul Francais.....		10 00
Legalisation par devant le consul Americane.....		2 00
Legalisation par devant le consul Espagnol.....		4 00
Cause diverses, &c., &c.....		2 00
		18 25

Matamoras, 16 Aout, 1863.

J. ALDIGE.

Document R, filed March 16th, 1864.

Nota de 38 pacas de algodon limpio que tengo embarcado en la goleta Inglesa Flying Scud capitan , con destino a la Habana, , A. Luber——

S G. 36 pacas,

L. 2 pacas,

38 pacas de algodon limpio con peso de 18,142, diez y ocho mil ciento cuarenta y dos libras, castellanos, y declar que los bultos no contien otro cosa que lo espresado.

Al Matamoras, 2 de Agosto de 1863.

J. ALDIGE.

VICE CONSULADO DE ESPANA EN MATAMORAS.

Certifico que la precedente factura presentada por parte de J. Aldige en
(1) una pagina contiene (38) trienta y ocho bultos.
Matamoras, 2 Agosto de 1863.
134 El vice consul,
[SEAL.] DIMAS DE TORRES VELASQUEZ.

U. S. CONSULATE, MATAMORAS, *Aug.* 17, 1863.

I, the undersigned, consul of the U. S. of America for Matamoras and the dependencies thereof, do hereby certify that the foregoing is the true and genuine signature of the vice-consul of Spain, Dimas Torres de Velasquez, in this city, and as such is entitled to full faith and credit.

In testimony whereof, witness my hand and the seal of this consulate, the day and year above written.

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Document S, filed March 16th, 1864.

VICE CONSULAT DE FRANCE AT MATAMORAS.

Mons. Jean Jacques Bruzon, vice consul de France a Matamoras, Mexique:

Feson savoir par ces presentes que le sieur Jean Jules Aldige, commercunt Francais residant a Matamoras, a comparu devant nous accompagne du sieur Emile Loubry et Louis Pardos, marchands Francais, residant en cette
135 ville.

Lequel nous affirme et declare sur sermente que vers le vingt Juillet, mil huit cent soixante trois, il a contraite avec le sieur Caymari de cette ville un engagement pour embarquer dans la goelette Anglaise Flying Scud trente-huit balles de coton qu'il avait achetees a Matamoras.

Quel sieur Caymari avait pris en charte partie la surdite goelette, et qu'il appest des registres de la douane maritime du sus dit port de Matamoras, que toutes les formalites presente pour l'embarquement avient ete observir et qu a l' appus de ce fait se trouve ci joint le connaissement du capitaine du Flying Scud expedie pour le port de la Havanne et de plus le certificat de la douane de Matamoras que perent l'embarquement de trente huit balles de coton sus mentionner.

Que vers le onze Aout present mois, la susdite goelette fut saisre dans le port de Matamoras par le steamer de guerre des Etats Unis Princess Royal, et conduit dit on a la Nouvelle Orleans, comme prise de guerre.

Que dans ces circonstances le sieur Aldige doit faire savoir que lo goelette Flying Scud, avait ete admise en douana, que par consequense il a pu croire qu'il nouvait y embarquer ses trente-huit balles de coton, et
136 qu'en ce fesant il a agi de bonne foi et fue par consequent la saisie du Flying Scud, est pour lui un fait entreremente tranger que ne peut en aucune maniere porter atteinte a son droit de propriete comme etant citozen Francais.

Qu'en consequence il se presente a nous pour affirmer et declarer que les motrip que ont fait saiser le Flying Scud ne sont pas appreciabler par lui, que le commerce de Matamoras les ignore completement qu'il a agi de bonne foi et que des raisons fonder sur la justice et l'equite rendant cette saisie des trente-huit balles de coton tres prejudicable a ses interest qu'il doit d'une protester et qu'il proteste de la maniere la plus formelle contre une telle violence et qu'il entend et poursuin et revendiquer la propriete des dites trente-huit balles et rendre les Etats Unis responsabler de tous les prejudices et dammages, interet qu'il souffre on qu'il pounce souffrir par suite de la saisie unmentanse on difinitive des trente-huit balles dont suget.

Et cette declaration et protestation ayant ete entendue par les dits sieurs Emile Loubry et Louis Pardos, et aprer leur en avoir nous meme
137 donne lecture ont affirme et declare sous serment qu'elle etait vrise en toute pointe, et l'ont signie avec le J. Aldige et nous a Matamoras le seize Aout, mil huit cent soixante-trois.

J. ALDIGE.

E. SOUBRY.
LOUIS PARDOS.
[SEAL.]

J. J. BRUZON.

Document Q, filed March 16th, 1864.

Je, soussigne, Jean Jule Aldige, negociant Francais residant a Matamoras. Donne pouvoir a Monsieur Joseph Bayle, negt a la Nouvelle Orleans,que je constitue pour mon procureur special a leffet d agir et de me representer dans la saisre de trente-huit balles de coton qui ont ete par moi acheter au port de Matamoras, et embarquer sur la golette Anglaise Flying Scud qui a ete conduite a la Nouvelle Orleans comme prize de guerre, et d'intenter pour obtenir la restitution des susditos trente-huit balles de coton, toute action et exercer toute poursutes a cet effet devant toute autorites competentes comme je le ferais moi meme.
138 Matamoras, le 16 Aout, 1863.

J. ALDIGE.

On pour nous vice consul de France a Matamoras pour la legalisation de signature J. Aldige ci contra apposee.
Matamoras, le 116 Aout, 1863.
El vice consul de France,

J. J. BRUZON.

Document H, filed March 16th, 1864.—*Bill of lading and invoice.*

Shipped, in good order and well conditioned, by Lopez and Santos Coy, in and upon the British sch'r called the Flying Scud, whereof is master for the present voyage, and now lying in the port of Matamoras and bound for L & SC. Havana, thirty bales cotton, w'g fifteen thousand and three hundred pounds, being marked and numbered as in the margin, and are to be delivered in like good order and condition, at the end of the ship's tackles, in the aforesaid port of Havana, (the dangers of fire at sea or on shore, collisions, accidents from machinery, boilers, steam, or any other accidents and
139 dangers of the seas, rivers, and steam navigation, of whatever nature or kind soever excepted, and with liberty to cross all bars with or without pilots, and to tow and assist vessels in all situations,) unto Messrs. L. Will & Co., or to their assigns, he or they paying freight for the said goods as customary 2½ per lb., with five per cent. primage and average accustomed.

In witness whereof, the master, purser, or agent of the said ship hath affirmed to three bills of lading, all of this tenor and date, one of which being accomplished the others to stand void.

Weights, contents, quality, and value unknown, and not answerable for leakage or breakage, rust of iron or steel if properly stowed. The owners of this ship will not be accountable for gold, silver, bullion, specie, jewelry, precious stones or metals, unless bills of lading are signed therefor and the value therein expressed.

The landing of the within goods on the wharf to be considered a delivery to the consignee.

Matamoras, 3rd August, 1863.

JOHN B. BOIG

(Annexed.)

Factura de 30 pacas algodon embarcadas por los suscriben en la goleta Inglesa Flying Scud, Boig cap., con destino a la Havana, a la con
140 s'g'n de los S'res J. Wills, & Co. hislt'a y seize de quien corresp'da.

L. & S. C. 30 pacas algodon con peso 15,000 lbs., at 30c.....		$4,590 00
Gastos:		
Comd'n a bordo y embarque.....	$75 00	
Com'n 2½ per cent.....	114 75	
		189 75
		4,779 75

S. E.—O. Matamoras, 6 Au'sto 1863.

LOPEZ Y SANTOS COY.

Document I, filed March 16th, 1864.

Factura de 30 pacas algodon que remitimas en la goleta Flying Scud, Capitain Boig, a la consignacion de los S'res Wills & Ca., de la Habana.
L. & S. Coy, 30 pacas algodon limpio con 15,300 libras.
Matamoras, 2 de Agosto de 1863

LOPEZ Y SANTOS COY.

VICE CONSULATE DE ESPANA EN MATAMORAS.

Certifico que la precedente factura presentada por parte de los S'res Lopez y Santos Coy en (1) una hagina, contiene (30) treinta bultos.
Matamoros, 2 de Agosto de 1863.
El vice consul.
141 [SEAL.] DIMAS DE TORRES PELASQUEZ.

U. S. CONSULATE, *Matamoras, Aug.* 18, 1864.

I, the undersigned, consul of the U. S. of America, do hereby certify that the foregoing is the true and genuine signature of Dimas de Torres Pelasquez, the vice-consul of Spain in this city, and as such is entitled to full faith and credit.

In testimony whereof, witness my hand the seal of this consulate the day and year above written.

L. PIERCE, JR., *U. S. Consul.*

Document G, filed March 16, 1864.—*Protest.*

Protesta hecha por los SS. Lopez y Santos Coy, contra el apresamto, de una goleta Inglesa, en los terminos, dentro se espresan.
[SEAL.]
En la ciudad de Matamoras, a diez y seis de Agosto de mil ochocientos sesenta y tres ante mi el escribano publico y testigos, comparecieron los Senores Lopez y Santos Coy, de este vicindad y comercio; a quienes
142 doy fe conozco, y dijeron que habiend embarcado en la goleta Inglesa "Flying Scud" a cargo, del capitan Boig, treinta pacas de algodon con la marca L. & S. C., con direccion a la Habana, segun comita por los documentos de esta aduana maritima y fronteriza, por la cual estaba despachada con sus respectivos facturas y conscimientos, certificados por los debidos consules, supieron el dia trece del corriente con el mayer disgusto y sorpresa, que estand anclada dicha embarcacion en los aguas de Mexico y fronta a salir para un destino, fue apresada por el vapor de guerra de los

Estados Unidos de America. Princess Royal conduciendola a New Orleans un motivo alguno legal. Que en tal virtuo y en atencion a que el esponente es ciudad ano Mexicano; a que el buque tenia su registro en toda regla por la aduana de este pais; a que la bandera Inglesa cubria la inercancia de que se ha hecho merito, y pop ultimo, a que con tal procedimento se han atro pellado los derechos de gentes reconocidos generalmente en los paises cultos, los mencionados Senores Lopez y Santos Coy otorgan; que protestan en toda forina unados, tres veces y todos las demas necesarios contra el vapor de guerra mencionado, contra el mismo gobierno de los Estados Unidos
143 de America, camo de que haya prevenido o aprobad tal proceder y contra quien mos haya lugar, para reclamar ahora y en todo tiempo las citadas treinta pacas de algodon, con mas los damos perjuicios que a los otorgantes se les irroquen por tan injusto apresamiento, y cuyo reclamo haran por si mismos o por medio de apoderados, hasta quedar enteramente reintegrados del valor de un mercancia, gastos de la cobranza y premio del diners en el tiempo que tranis una hasta la conclusion del asunto. Anto otorgaron y fixmaron, siendo testigos D. Felipe Salaron, D. Calixto Trevino y D. Cirilo Rodrigues, de este vecinidad, doy fe.

LOPEZ Y SANTOS COY.

MARIANO GOMEZ CASTANA, *Escribano Nacional y Publico.*

Sacore de un registro hoy dia de us otorgamiento y va en este pliego del sello segundo, vienio corriente, siend testigos los instrumentales, doy fe.

MARIANO GOMEZ CASTANO,
Escr'o Nac'l y Pub'co.

U. S. CONSULATE, *Matamoras, Aug.* 18, 1863.

144 I, the undersigned, consul of the U. S. of America for Matamoras and the dependencies thereof, do hereby certify that the foregoing is the true and genuine signature of Mariano Gomez Castano, notary public, and as such is entitled to full faith and credit.

In testimony whereof, witness my hand and the seal of this consulate the day and year above written.

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Document F, filed March 16th, 1864.—Power of attorney by Lopez y Santos Coy.

Poder especial otorgado por los S'res Lopez y Santos Coy, en favor de los SS. D. de Goicouria & Co., residentes en New Orleans.

En la H. ciudad de Matamoros a diez y seis de Agosto de mil ochocientos sesenta y tres ante mi el escribano publico y testigos, los Senores Lopez y Santos Coy, de este vecindad y comercio, a quienes, doy fe conozco,
145 otorgan que dan todo en podex amplio cumplido, bastante, cuant por derecho se requiere y necesario sea, mas pueda, y deba valer, a los Senores D. de Goicouria y Comp'a de New Orleans, para que a nombre de los otorgantes y representando sus propias personas, derechos y acciones, reclamer en toda forma ante las autoridades que corresponda, treinta pacas de algodon que embarcasion en la goleta Inglesa "Flying Scud," con la marca "L. & S. C." y con destino a la Habana, y que us obstante esta despachada por la aduana de este ciudad, y por conocimientos y facturas certificados por los debidos consules, y no obstante tambien estar en las aguas de Mexico y ser propiedad de un Mexicano las espresadas pacas de algodon, ha sid apresada y conducido a New Orleans un motivo alguno legal por el vapor de guerra de los Estados Unidos de America, "Princess Royal," y con cuyo injusto proceder se les han seguid y uguen graves perpicios. An mismo se los confieren para que ecirsan del responsable o responsables el

debido resarcim'to de todos los danos y menos cabos que se les han irrogado por tal motivo, segun las cartas misivas que al efecto les dirijan; y u sobre lo referido se ofreciese pleito a contierda de juicio lo ugan y femercan
146 hasta un final conclusion y determinacion, intentand previamente, cuand sea necesario, el medio de la conciliacion, y celebrande las transacciones q'l entimen por convenientes con entera sujecion a las leyes; oigan autos y sentencias y apelen de unos y otras cuando fueren adversos: recusen jueces, escribanos y otros ministros: juren las recusassiones, espresen y prueben un causas cuando por leyes se requiera; y hagan en el asunto cuantos actos, agencias y diligencias pudieren hacer los otorgantes u estu bresen presentes; pues para todo ello, su anecio, incidente y dependiente les confieren este poder especial, con libre, franca y general administracion y facultad de enjuicias jurar y sustituir, revoca sustitutos y nombrar otras de nuevo con la obligacion y relevacion en derecho necessarias; advertiendo, que quieren se den aqui por insertas cuantes clausulas sean necessarias para el desempeno del encargo que les confian. Y a la guarda, validacion y complimiento de lo referido, obligan las Senores otorgantes sus bienes presentes y futuros, y con ellos se sometere al fuerco y jurisdiccion de los Senores Tueces de la Republica Mexicana, para que a lo dicho las compelean y appenien, como in fuere por sentencia consentida y para da en autoridad
147 de cora jusgada; se menciondo las leyes de su favor y defensa con la general del derecho en forma. Anto otorgarsu y firmaron, siendo testigos D. Felipe Salaran, D. Calixt Trevino y D. Cirilo Rodriguez, de este vecindad; doy fe.

LOPEZ Y SANTOS COY.

MARIANO GOMEZ CASTANO, *Escribano Nacional y Publico.*

Sacose de in registra hoy dia de in otorgamiento y va este pliego del sello segundo vienio corriente, viendo testigos los instrumentales: doy fe.

MARIANO GOMEZ CASTANO,
Escr'o Nac'l y Publico.

U. S. CONSULATE, *Matamoras, Aug.* 18, '63.

I, the undersigned, consul of the U. S. of America for Matamoras and the dependencies thereof, do hereby certify that the foregoing is the true and genuine signature of Mariano Gomez Castano, notary public, and as such is entitled to full faith and credit.

In testimony whereof, witness my hand and the seal of this consulate the day and year above written.

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

148 *Document A.—B. Caymari's bill of lading.*

Shipped, in good order and well conditioned, by B. Caymari, in and upon
B. C. the British schooner Flying Scud, whereof is master for the present voyage, and now lying at the port of Matamoras and bound for Havana, one hundred and thirty-seven bales of cotton, w'g 62,335 pounds, being marked and numbered as in the margin, and are to be delivered in like good order and well conditioned, at the end of the ship's tackles, in the aforesaid port of Havana, (the dangers of fire at sea or on shore, collisions, accidents from machinery, boilers, steam, or any other accidents and dangers of the seas, rivers, and steam navigation of whatever nature or kind soever, excepted, and with liberty to cross all bars with or without pilots, and to tow and assist vessels in all situations,) unto Messrs. Coppinger & Co., or to their assigns, he or they paying freight for the said goods as customary, as per charter-party, with five per cent. primage and average accustomed.

149 In witness whereof, the master, purser, or agent of the said ship hath affirmed to three bills of lading, all of this tenor and date, one of which being accomplished the others to stand void.

Weights, contents, quality, and value unknown, and not answerable for leakage and breakage, rust of iron or steel if properly stowed. The owners of this ship will not be accountable for gold, silver, bullion, specie, jewelry, precious stones or metals, unless bills of lading are signed therefor and the value therein expressed.

The landing of the within goods on the wharf to be considered a delivery to the consignee.

Matamoras, 3rd August, 1863.

JOHN B. BOIG.

Document B, filed March 16th, 1863.—English invoice.

Invoice of cotton shipped by the undersigned on the British schooner Flying Scud, Boig master, bound for Havana, consigned to Messrs. Copping & Co., for ac. of whom it may concern:

150	B R W, 26 bales cotton; B C, 111 ditto—137 bales cotton, weighing 63,979 pound, at 28 c., on board the vessel ———	$17,914 12
	Commission, 2½ per c	447 85
		18,361 97

Matamoras, Aug. 3rd, 1863.

B. CAYMARI.

U. S. CONSULATE, *Matamoras, Aug.* 15, 1863.

I, the undersigned, consul of the United States of America for Matamoras and the dependencies thereof, do hereby certify that the 137 bales of cotton contained in the above invoice have been shipped by the subscriber, B. Caymari, through the custom-house here as Spanish property.

In testimony whereof, witness my hand and seal of this consulate the day and year above written.

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Document C.—Mexican invoice.

151 Nota de 137 pacas algodon embarcados en la goleta Inglesa "Flying Scud," Capt. Boig, con destino a la Habana, Cuba, y a la consig'n de las Sres. Coppinger y Ca. B R, W, 26 pacas algodon; 111 pacas algodon—137 pacas algodon limpio conteniendo sesenta y dos mil trecientes treinta y cinco libras costello y declaro que los bultos no contienen otra casa que lo espresado.

Matamoras, dos Agosto, 1863.

B. CAYMARI.

El abajo suscrito, vice consul de Espana en Matamoras, certifico que la precedente factura presentada a por parte de Don Bernardo Caymari en esta fecha contiene 137 ciento treinta y siete bultos.

Matamoras, 2 de Agosto de 1863.

DIMAS DE TORRES VELASQUES, *El Vice Consul.*

Document L, filed March 16th, 1863.

Protesta hecha ante el vice consul de Espana en Matamoras por D'n Bernardo Caymari sobre 137 balas de algodon quintadole por un vapor
152 de los Estados Unidos.

P'to de Matamoras, 15 de Agosto de 1863.

[SEAL.] A las quince dias del mes de Agosto de mil ochocientos sesenta y tres, se presento en el vice-consulado de mi cargo ante mi y testigos abajo firmados Don Bernardo Caymari subdito Espanol y comerciante residente en esta ciudad y dijo. Que habiendo hecho en el mes de Julio procsimo pasado una compra de algodon en esta plaza con el objeto de remiterlo a la Habana, celebro en segui de una contrata de fletamente con el Capitan Boig para embarcar en la goleta Ynglesa, de su mando nombrada "Flying Scud," sura en esta rada de Matamoras, ciento treinta y siete balas de algodon en rama sin pepita para conducirlo por cuenta del esponente al referido puerto de la Habana. Que en cumplimiento de este contraito, paso a la aduana y al vice consulado Ingles en cuyas oficinas le informaron que la Scud habia hecho debidamente su entrada y cumplido con las requisitos de la ley, asi como que tenia registro abierte para poder recibir mercancias, y que en vista de este el esponente remitio abordo del citado buque las ciento
153 treinta y siete balas de algodon de que dijo hecho mencion con el correspondiente permiso de la propia aduana de Matamoras. Que concluida la carga de la "Scud" y ballandore esta proxima a darse a la vela para la Habana, habiendo el tres de este mes firmado el capitan los respectivos conocimientos de embarque, se le presenti el Capitan Boig con la noticia de que de un vapor de los Estados Unidos fondeado hace algunos dias en la misma rada o desembocadura del Rio Bravo, por otro nombre Rio Grande, salio un bote tripulado y que posesionandon de la goleta Scud se la lleiaron mar afuera en momentas en que dicho capitan se hallaba en tierra con los papeles concernientes al cavgamento. Que sor prendido de un hecho tan estrano pues que nada habia ejecutado qui fuese en contraiencion de las leyes maritimas comunes de la navigacion legal y particularmente de las de los Estados Unidos y sobre todo que estando en el puerto neutral de Matamoras y despachado por la aduana del mismo venia a ponerlo en conocimiento del esponente por que con el buque de que se trata, se lleivaron las ciento treinta y siete pacas de algodon de su propiedad sin saber la
154 causa de tan arbitrario procedimiento. Que al mismo tiempo le informaba que el vapor de que habla y de donde procedio el bote con la gente que ocupo lo "Scud," se llama Princess Royal y es perteneciente a la marina de guerra de los Estados Unidos como queda manifestado.

El repetido esponente Don Bernardo Caymari presente en este vice-consulado, al referir los hechos que preceden, agrega, que la toma y desaparicion de la goleta Inglesa "Scud" llevando las ciento treinta y siete balas de algodon de su pertencia, es un ataque directo a su propiedad de que lo ha despojado una fuerza armada de los Estados Unidos de Norte America y una viotacion flagrante de la neutralidad que garantizal a la mercancia, cubierta ademas con la legitimidad de su posesion y legal despacho para un puerto tambien neutral. Que la conducta del comandante del Princess Royal, lo pone en graves compromisos por habersele despojado del considerable capital que representa dicho algodon tomadole, y le origina perdidas sensibles con menoscabo de su capital industrial.

155 Por todo lo espuesto, el espresado D'n Bernardo Caymari de este comercio, protesta una, dos, y tres, veces de la manera mas formal y solemne, contra el comandante del vapor de guerra Princess Royal, contra el gobierno de los Estados Unidos de Norte America y contra quien mas en derecho haya lugar por el importe de las ciento treinta y siete balas de algodon quitadole y por los danos y perjuicios que este acto le origine.

En fe de lo cual dicho Caymari y testigos lo firmaron ante mi en le dia y mes arriba mencionado.

El vice consul de Espana,

DIMAS DE TORRES VALASQUEZ.
BERNARDO COYMARI.
CASIMIRO DE CASTRO.
JUAN CARPONELL Y OLIVA.
BARTOLOME PASSEMENT.

Certifico que la que precede es copia fiel y exacta de la protesta hecha el dia quince de este mes por Don Bernardo Caymari en le vice-consulado de mi cargo. Ya pedimente del interasado libro la presente a diez y seis de Agosto de mil ochocientos sesenta y tres.

El vice-consul de Espana,

[SEAL.] DIMAS DE TORRES VELAZQUEZ.

156 U. S. CONSULATE, *Matamoras, Aug.* 15, 1863.

I, the undersigned, consul of the U. S. of America for Matamoras and the dependencies thereof, do hereby certify that the foregoing is the true and genuine signature of the vice-consul of Spain in this city, and as such is entitled to full faith and credit.

In testimony whereof, witness my hand and the seal of this consulate the day and year above written.

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Document D.—Power of attorney.

Testimonio original del poder que otorgo Don Bernardo Caymari y favor de los S'res D. Goicouria y C'a de Nueva Orleans sobre un reclamo de 137 balas de algodon.

Puerto de Matamoras, Agosto 16 de 1863.

[SEAL.] Dimas de Torres Velasquez, vice-consul de Espana en Matamoras, certifico, que el dia quince de Agosto del corriente ano de mil ochocientos sesenta y tres, comparecio en este vice-consulado de mi cargo el sub-
157 dito Espanol Don Bernardo Caymari, residente en esta plaza a quien doy fe conozca y dijo: Que du todo su poder amplir, bastante cuante por derecheo se requiera y necesario sea a los Senores D. Goicouria y Compania vecinos y del comercio de Nueva Orleans, especial, para que a nombre del otorgante y representando su propia persona, derechos y acciones, demande de la autoridad o autoridades que corresponda o del gobierno de los Estados Unidos de Norte America asi como de cualesquiera de los tribunales competentes de aquella nacion, la devolucion o el pago del importe de 'ciento treinta y siete balas de algodon en rama sin pepita de la pertenencia del otorgante, las que sin derecho ni adquisicion legal, le quito el vapor de guerra de aquella republica nombrado Princess Royal, y cuyas balas tenia embarcadas abordo de la goleta Inglesa Scud, Capitan Boig, fondeado en esta vada y lista para hacer viage al puerto de la Habana, asi como para reclamar el pajo o indemnizacion de los danos y perjuicios que semejante ataque a su propiedad le origine, todo conforme a las instrucciones que por separado da a sus referi-
dos apoderados, practicando cuantas deligencias sean precisas para
158 el resarcimiento de los valores quitadole, con facultad de asistira juicios ante dichos tribunales, protestar y pedir testimonios, presentandose ante ellos o cualesquiera otras personas autorizadas competentemente con los pedimentos certificaciones y pruevas que por conveniente tu-

viere, apelando y suplicando de los fallos adversos y siguendo las instancias hasta su conclusion. Ya la firmaza de todo, obliga sus bienes presentes y futuros en cuyo testimonio asi lo otorgo ratifico y firmo siendo testigos Don Casimero Castro, Don Juan Carbonell y Oliva, y Don Barolome Passement.

El vice consul de Espana, DIMAS DE TORRES VELASQUEZ.
BERNARDO CAYMARI.
CASIMERO CASTRO.
JUAN CARBONELL Y OLIVA.
BARTOLOME PASSEMENT.

La presente copia es conforme su original que queda en el archivo de este vice-consulado. Ya pedimente departe doy esta en un pliego, sellado con el escudo de mi nacion y dejandolo anotado en su matrio.

Matamoras, 16 de Agosto de 1863.

El vice consul de Espana,
[SEAL] DIMAS DE TORRES VELASQUEZ.

159 U. S. CONSULATE, *Matamoras, August* 15, 1863.

I, the undersigned, consul of the U. S. of America for Matamoras and the dependencies thereof, do hereby certify that the foregoing is the true and genuine signature of the vice-consul of Spain in this city, and as such is entitled to full faith and credit.

In testimony whereof, witness my hand the seal of this consulate the day and year above written.

[SEAL.] L. PIERCE, JR., *U. S. Consul.*

Hearing and submission, from minutes of March 16th, 1864.

UNITED STATES
vers.
SCH'R FLYING SCUD, &c. } No. 7,578.

This cause came on this day for trial—district attorney for libellant, D. Augustin for captors, C. Roselins and Edw. Briggs for claimants—when after hearing the testimony taken in preparatorio, and the evidence taken under the order for further proof, and argument of counsel, the
160 court took the case under advisement, allowing Mr. Roselins until to-morrow to furnish proof of the locality of the "Brazos Warehouse," as to whether it is on the Mexican or Texan side of the river.

Minute of evidence, offered March 16th, 1864.

Libellants and captors offered in evidence the testimony of Capt. Woolsey, T. C. Haggart, and R. S. Woolsey, filed 28th September, 1863; also the evidence of J. H. Titus and R. L. Woolsey, filed Oct. 12th, 1863.

B. Caymari, claimant, offered in evidence documents A, B, C, D, E, L, and M.

Lopez y Santos Coy offered documents F, G, H, I, N.

J. Aldige offered in evidence documents O, P, Q, R, S, T, and K. These documents are received to prove rem ipsam.

Claimants to the vessel offered in evidence the return to the commission, on file, marked X.

161 *Testimony relative to Brazos or Bravos W. H., filed March 17th, 1864*

Testimony taken in presence of C. Roselius and D. Augustin, esq.

Theotine Generally, being sworn, says: He has no interest in this case whatever. Has been in Matamoras. Knows the Bravo Warehouse. It is situated at Boca del Rio or Bagdad, on the Mexican side. All the warehouses of Matamoras are there. It is the port of entry of Matamoras, and is connected with the port of Matamoras. It is situated at 45 miles by land from Matamoras and from 85 to 100 miles by water. All the merchandize shipped from Matamoras has to go through Boca del Rio, where the Matamoras custom-house is situated. The vessels stop from 100 to 110 miles from the city of Matamoras; they anchor in the roadstead. The bar is about 100 miles from the city of Matamoras. The bar is right at the mouth of the river. The vessels are laden and unladen by lighters. The width of the river opposite Bagdad or Bocas del Rio is from 175 to 200 feet, I would judge. I have been on the Texas side. There are no warehouses on the Texas side opposite Boca del Rio at all. The first settlement
162 on the Texas side there is Brownsville, opposite Matamoras. I think there are a few warehouses at Brownsville for storing cotton, but they are not used much. I never heard of a warehouse called Brazos Warehouse. Boca del Rio is at the mouth of the river, as well as on the river, and it extends about 300 feet from the mouth of the river, along up the river. All vessels going to Matamoras have to stop in the roadstead, and cannot go up the river if they draw over 3 feet of water. The vessels have sometimes to anchor 5 or 6 miles from shore before finding an anchorage.

Cross-examined.

The depth of the channel at the entrance is from 3 to 4 feet. Nine-tenths of the vessels have to stand 9 or 10 miles outside, in the roadstead.

T. GENERALLY.

Placide de Lassus, sworn for claimants, says: I have been 11 months at Matamoras. I know the Bravo Warehouse. It is situated on the Mexican side. Have been clerk to Mr. Goicouria, who is the owner of said warehouse. Bravo Warehouse is located at Boca del Rio or Bagdad, and Bag-
163 dad is a part of the port of Matamoras, where the vessels have to enter first before they can proceed to Matamoras, or before the goods can go there. The goods exported from Matamoras must go through Boca del Rio first. I saw the Flying Scud there; she was lying about 4 miles from the coast.

(Counsel for captors objects to the evidence.)

Saw her (the Scud) being loaded. She was about 3 or 4 miles from Boca when I saw her. She was in Mexican waters. Saw her until she was almost loaded. She never entered the river, because she drew about 10 feet water, and could not enter it. The cotton was put on board by a sailing lighter. The cotton was brought from Matamoras—that is to say, from that part of the harbor of Matamoras called Boca del Rio.

Cross-examined.

I am 25 years of age. I did not take the compass to take the bearings of the Flying Scud, as she was lying about 4 miles off, but I was on the lighter Bravo, owned by Mr. Goicouria, and there judged of her position by sight. I was Mr. Goicouria's clerk. Am not now in Mr. Goicouria's employ.

PLACIDE DE LASSUS.

Aug. Negrey, sworn for claimants, says: I have been in Matamoras. I know the Bravo Warehouse. The Bravo Warehouse is situated at
164 Boca del Rio or Bagdad, on the Mexican side, and is the port of entry of Matamoras. Vessels must enter there before they can send their goods to Matamoras.

AUG. NEGREY.

Counsel for captors objects to all such evidence as does not come within the order of court of yesterday, which confined the evidence to the location of the Brazos or Bravo Warehouse.

Reasons for judgment, filed April 5th, 1864.

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

The Flying Scud, an English owned vessel, left Nassau on a voyage to Matamoras and back, early in the month of February, 1863. The cook and two seamen, examined in preparatorio, testify that she was loaded when she left Nassau with a cargo consisting of powder, tin, horseshoes, corn, soda, and lumber; that upon her arrival in the roadstead of the Rio Grande she remained at anchor there something like a month, when a pilot came
165 on board at about 10 p. m., and took command, saying that he was going to take the vessel a few miles down the coast, and that the following morning they found themselves at Brazos Santiago, in the State of Texas, where the whole cargo was discharged.

The sailors say that when they left Nassau they were wholly ignorant of the fact that powder comprised a part of the cargo; that three days absence, immediately prior their leaving, were given them for their diversion, and that when they returned the schooner was loaded, the hatches closed, and they started at once upon the stipulated voyage. It was only in the morning after the vessel's arrived at Brazos Santiago, when an order was issued for the extinction of all the lights and fires, that they learned that powder was a large component part of the cargo, and that it was then about to be discharged. Smith, a seaman, appears to be have been the only honest man on board when the Flying Scud left Nassau, for he alone says that had he then have known that she had powder on board, and that she was proceeding upon a voyage for blockade running, he would not have gone upon her.

The Flying Scud lay at Brazos Santiago somewhat more than a month, discharging her cargo and waiting, as we must reasonably suppose, an
166 opportunity for safely running out and returning to her position in the roadstead of the Rio Grande, and with the audacity with which she left Nassau, loaded with contraband of war, upon a mission hostile to the United States, anchored in waters into which the neutrality she professed had forbidden her entrance, and thus changing the ultimate port of her destination, received on board the cargo submitted to my adjudication.

The cook says the Flying Scud was in Mexican waters when taken. His testimony cannot be held to be of much weight. The two seamen captured on board also say that she was when taken in Mexican waters, and their testimony is worthy of no larger consideration. The master, Boig, of Bagdad, says that she was lying in neutral waters when taken. He was absent at the time, in Matamoras; and knowing, as we do, that he commanded the vessel from its start at Nassau upon an illegal voyage, that he was superseded at the mouth of the Rio Grande by a pilot from Bagdad, who conducted her to

Brazos Santiago and brought her back to her anchorage at the mouth of the Rio Grande, his testimony is worthy of no consideration whatever. Bunker, the pilot, who came on board at 10 o'clock at night, saying that he was going to move the vessel some two miles down the coast, and
167 who piloted her to Brazos and back, says, in his answer to the fourth interrogatory, under the order for further proof: "I know nothing done by said vessel in violation of the blockade of the Texas cost established by the United States." Can perjury go further? And this, I conceive to be the general characteristic of the mass of evidence adduced by claimants in this case.

Titus, a sailor on board the British brig Atlantic, says: "The Scud lay in the channel, for I could see right up the river," meaning, I suppose, that he could see right up the river from the deck of the Scud. He goes on to say, "the vessels being anchored, they did not consider that any of the waters were blockaded. The Scud was in the same spot all the time." This is arriving somewhat nearer to the point, and I have no doubt that Titus is an honest man.

Captain M. B. Woolsey, in command of the capturing vessel, the Princess Royal, says: "She, the Scud, was in American waters when captured. I had bearings of the Princess Royal. She bore E.NE. by compass. The Flying Scud was, at the time the bearings, were taken, north from the Princess Royal and in American waters. The Flying Scud was some short distance to the northward of the Princess Royal. I was in command of the Princess
168 Royal. The Princess Royal was at that time in American waters."

On cross-examination he says: "The Flying Scud when taken was about a mile from the Mexican shore. From the Texas shore her distance was very nearly the same. She was at anchor. She lay at anchor a little to the north from the mouth of the river. The Flying Scud was to the northward of us. I was particular in taking the bearing, because I did not wish to involve the United States government in any question of neutrality." Capt. Woolsey's testimony is confirmed by that of his clerk, R. S. Woolsey, and I have no doubt upon my mind as to its truth in every particular.

Here, then, we have a neutral vessel, starting upon an illegal voyage, contrary to the law of nations, accomplishing its most unfriendly, or rather hostile, purpose, and finally dropping its anchor in the interdicted waters of the government it had outraged, and there quietly taking on board a cargo of cotton, the product of Texas, and the only wealth our enemies hold wherewith to barter in exchange for the munitions of war, which the traders of a neutral and unfriendly town, pushed by a greed for gain, land upon their shores.

The vessel was subject to capture at any time. She might have been seized within one hour's sail from Nassau, and she might have been followed and taken in mid-seas, had she slipped out from the road-
169 stead of the Rio Grande, on her contemplated voyage to the Havana. How is it with the cargo?

A neutral shipper who honestly puts his goods upon a neutral vessel, in neutral waters, to be transported to a neutral port, is not affected by any prior or by any subsequent wrong which may have been done or may be done by the carrier, but I know of no principle in international law, neither do I know of any decision of a court of the law of nations, which authorizes a neutral to ship his goods upon a vessel lying at anchor in waters interdicted to commerce, and with the crime of blockade breaking still fresh and potent upon her. This fact is itself alone sufficient to condemn the cargo. But I am satisfied that all the shippers and claimants of the cotton in this case were cognizant of and participants in the wrongdoing of the Flying Scud from its commencement.

The captain of the vessel while at Nassau, where he shipped his crew upon a voyage to Matamoras and back, well knew what he was about to do, for we find among the papers captured on board the draft of a letter signed by him and addressed to the wife of a friend, in which he says: "I am extremely happy to inform you of the safe arrival of Capt. L———, in an English port not far from this. I left him there to sail in two days, to come here in a small vessel, that will not be liable at all to any trial of
170 search. He came from Liverpool with me, and has been ever since quite well. He desired me to write you in case I got in all right, but would not write himself, fearing I might be captured by the Yanks."

John D. Mirraellis, to whom the captured vessel appears to have been consigned at the Rio Grande, who changed her destination from a return to Nassau to a new voyage, with its terminus at Havana; who, assuming to act as master, chartered her anew to one of the claimants of the cargo in this case, and who, with an effrontary which to me is somewhat remarkable, now claims her as agent for her owner "Hart," of London, well knew what he was doing and what he was about to do, for we also find among the papers captured a letter of his, addressed to Capt. Boig, in these words:

"MATAMORAS, *May 2nd*, 1863.

"Capt. J. B. Boig, sch'r Flying Scud:

"DEAR SIR: The bearer of this, Capt.———, has a lot of 10 bales of cotton on board his schooner, lying at Pt. Isabel, which I have bought. Before receiving it on board your vessel you will please see it weighed and that it is in good order. The schooner will lighter it to you free of expense. I am surprised that you have never written to me in answer to my several
171 letters. I wish to know how are you getting on. About 200 packages powder, some lumber, tin, and fish have not yet arrived. When you can come up.

"Yours, &c,

"JOHN D. MIRRAELIS."

The schooner lay at the Rio Grande a long time prior to her going to Brazos Santiago and I cannot come to any conclusion other than that the shippers and claimants of the cotton, with Mirraelis acting as agent of the vessel, changing her voyage, chartering her to one of them, knew of and were part and lot in all her transactions; that the cotton was the price of the cargo delivered at Brazos Santiago, and that therefore the cargo as well as the vessel should be condemned. There is evidence in the record going to show the respectability of the standing as merchants of the several shippers and claimants. One of them is established at Brownsville, Texas, and is therefore an enemy; the others, residents of Matamoras and New York, have undoubtedly accepted that lazy code of morals in commerce which justifies gambling when the chances of gain are large.

Let the vessel and cargo be condemned.

(Sig.) E. H. D., *Judge.*

Judgment.

172 For the reasons assigned in the written opinion of the court, this day delivered and is on file, it is ordered, adjudged, and decreed that the schooner Flying Scud, her tackle, apparel, and cargo, be, and the same are hereby, condemned as lawful prize of war; that after ten days' advertisement the same be sold by the marshal and the proceeds thereof deposited with the ass't treasurer in this city, and there held subject to the further

order of court, reserving for further action the question of how many and what public vessels are entitled to share in the prize and the relative force of the vessels, and to that end the prize commissioners shall take the evidence of such witnesses as may be brought before them.

Judgment rendered April 5th, 1864.

Judgment signed April 11th, 1864.

E. H. DURELL, *Judge.*

173 *Petition of appeal by B. Caymari, filed April 9th,* 1864.

U. S. district court, eastern dist. of Louisiana.

UNITED STATES
vers.
SCH'R FLYING SCUD, CARGO, &C.

To the Hon. E. H. Durell, judge of the United States district court for the eastern district of Louisiana:

The petition of Bernardo Caymari, residing in Matamoras, republic of Mexico, through his special agent and attorney in fact, D. de Goicouria & Co., residing in New Orleans, respectfully represents that judgment was rendered in this hon. court in the above-entitled case, on the 5th day of April, 1864, in favor of the libellant and against the claim and intervention of your petitioner, claiming the sole and exclusive ownership of one hundred and thirty-seven bales of cotton, on board the schooner Flying Scud, and constituting part of her said cargo; that the same exceeds in value the sum of two thousand dollars; that your petitioner has been informed and believes that there is error in said judgment to his prejudice, and he is desirous of appealing from the same to the hon. the Supreme Court of the United States.

Wherefore he prays this hon. court to grant him a suspensive ap-
174 peal from said judgment, the same to operate as a supersedeas, to the hon. the Supreme Court of the United States, upon his giving bond and security, conditioned according to law, in such sum as the court may designate; that the United States of America, through its proper officer, may be notified to appear and answer the same according to law. And he prays for such other and general relief as the nature of his case may require and the law will permit.

And he will ever pray, &c., &c.

C. ROSELINS, *Proctor.*

Emile Roques, of the firm of D. de Goicouria & Co., special agents and attorneys in fact of Bernado Caymari, the petitioner, being duly sworn, deposes and says that the property, the ownership of which is claimed by said petitioner herein, exceeds in value the sum of two thousand dollars.

EM. ROQUES.

Sworn to and subscribed before me this 9th April, 1864.

K. LOEW, *D'y Clk.*

Order of appeal.

An appeal is allowed in this case, returnable to the Supreme Court
175 of the United States the first Monday of December next, the appellant giving bond in the sum of one thousand dollars, with good and solvent security, conditioned as the law directs.

April 16th, 1864.

E. H. DURELL, *Judge.*

Appeal bond, filed April 16th, 1864.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

UNITED STATES
vers.
SCHOONER FLYING SCUD AND CARGO. } In admiralty. No. 7,678.

Know all men by these presents that we, D. de Goicouria & Co., special agents and attorneys in fact of Bernard Caymari as principal, and Emile Roques as surety, are held and firmly bound unto the United States of America in the sum of one thousand dollars, to be paid to the said United States of America, for the payment of which, well and truly to be made in lawful currency of the United States, we bind ourselves and each of
176 us, our and each of our heirs, executors, administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated at New Orleans, the 16th day of April, 1864.

Whereas the above-named Bernard Caymari, through his said special agents and attorneys in fact, has appealed to the next December term of the Supreme Court of the United States from a final judgment of the district court of the United States for said district, rendered against him on the 5th day of April, 1864, in the above-entitled cause:

Now, therefore, the condition of this obligation is such that if the above-named appellant shall prosecute his appeal to effect, and answer all damages and costs and satisfy whatever judgment may be rendered against him if he fails to make his appeal good, then this obligation to be void; otherwise, the same shall be and remain in full force and effect.

BERNARD CAYMARI,
Pro D. DE GOICOURIA & CO. [L. S.]
EMILE ROQUES. [L. S.]

Emile Roques, surety, being sworn, says that he is worth the sum of $1,000 over and above all his liabilities.

EMILE ROQUES.

Sworn to and subscribed before me this 25th April, 1864.

K. LOEW, *D'y Clk.*

177 *Petition for appeal by Lopez and Santos Coy, filed February 9th, 1864.*

U. S. district court, eastern dist. of Louisiana.

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO. }

To the Hon. E. H. Durell, judge of the U. S. dist court for the east'n dist. of Louisiana:

The petition of Lopez and Santos Coy, residing in Matamoras, republic of Mexico, through their special agent and attorney in fact, D. de Goicouria, residing in New Orleans, respectfully represents that judgment was rendered by this hon. court in the above-entitled case, on the 5th day of April, 1864, in favor of the libellant and against the claim and intervention of your petitioners, claiming the sole and exclusive ownership of thirty bales of cotton on board of said schooner Flying Scud, and constituting part of her said cargo; that the same exceeds in value the sum of two thousand dollars; that your petitioners have been informed and believe that there is error in said judgment to their prejudice, and are desirous of appealing from the same to the hon. the Supreme Court of the United States.

Wherefore they pray that this hon. court to grant them a suspen-
178 sive appeal from said judgment, the same to operate as a supersedeas, to the hon. the Supreme Court of the United States, upon their giving bond and security, conditioned according to law, in such sum as the court may designate; that the United States of America, through its proper officer, may be notified to appear and answer the same according to law. And they pray for all such other and general relief as the nature of their case and the law may require.

And they will ever pray, &c., &c.

C. ROSELINS, *Proctor.*

Emile Roques, of the firm of D. de Goicouria & Co., special agent and attorney in fact of Lopez and Santos Coy, the petitioners, being duly sworn, deposes and says the property, the ownership of which is claimed by said petitioner herein, exceeds in value the sum of two thousand dollars.

EM. ROQUEZ.

Sworn to and subscribed before me this 9th April, 1864.

K. LOEW, *D'y Clk.*

Order allowing appeal.

An appeal is allowed in this case, returnable to the Supreme Court of the United States the first Monday of December next, the appellants
179 giving bond in the sum of one thousand dollars, with good and solvent security, conditioned as the law directs.

April 16th, 1864.

E. H. DURELL, *Judge.*

Appeal bond, filed 16th April, 1864.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO. } In admiralty. No. 7,678.

Know all men by these presents that we, D. de Goicouria & Co., special agent and attorney in fact of Lopez and Santos Coy, as principal, and Emile Roques as surety, are held and firmly bound unto the United States of America in the sum of one thousand dollars, to be paid to the said United States of America, for the payment of which, well and truly to be made in lawful money of the United States, we bind ourselves and each of us, our and each of our heirs, executors, administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated at New Orleans this 16th
180 day of April, 1864.

Whereas the above-named Lopez and Santos Coy, through their said special agent and attorney in fact, have appealed to the next December term of the Supreme Court of the United States from a final judgment of the district court of the United States for said district, rendered against them on the 5th day of April, 1864, in the above-entitled cause:

Now, therefore, the condition of this obligation is such that if the above-named appellant shall prosecute his appeal to effect, and answer all damages and costs and satisfy whatever judgment may be rendered against him if he fails to make his appeal good, then this obligation to be void; otherwise, the same shall be and remain in full force and effect.

LOPEZ Y SANTOS COY,
Pro D. DE GOICOURIA & CO. [L. S.]
EM. ROQUES. [L. S.]

Emile Roques, surety, being sworn, says he is worth the sum of $1,000 over and above all his liabilities.

EM. ROQUES.

Sworn to and subscribed before me this 25th April, 1864.

K. LOEW, *D'y Clk.*

181 *Petiton for appeal by Jules Aldige, filed April 9th, 1864.*

U. S. district court, eastern district of Louisiana.

UNITED STATES
vs.
SCH'R FLYING SCUD, &c. } No. 7,678.

To the Hon. E. H. Durell, judge of the United States district court for the eastern district of Louisiana:

The petition of Jules Aldige, residing at present in the city of New Orleans, respectfully represents that judgment was rendered by this hon. court in the above-entitled case, on the 5th day of April, 1864, in favor of the libellant and against the claim and intervention of your petitioner, claiming the sole and exclusive ownership of thirty-eight bales of cotton, on board of said schooner Flying Scud, and constituting part of her said cargo; that the same exceeds in value the sum of two thousand dollars; that your petitioner has been informed and believes that there is error in said judgment to his prejudice, and he is desirous of appealing from the same to the hon. the Supreme Court of the United States. Wherefore he prays this hon court to grant him a suspensive appeal from said judgment, the same to operate as a supersedeas, to the hon. the Supreme Court of the United States,
182 upon his giving bond and security, conditioned according to law, in such sum as the court may designate; that the United States of America, through its proper officer, may be notified to appear and answer the same according to law. And he prays for all such other and further relief as the nature of his case and the law may require.

And he will ever pray, &c.

C. ROSELINS, *Proctor.*

Jules Aldige, the petitioner, being duly sworn, deposes and says that the property, the ownership of which is claimed by him herein, exceeds in value the sum of two thousand dollars.

J. ALDIGE.

Sworn to and subscribed before me this 9th April, 1864.

K. LOEW, *D'y Clk.*

Order allowing appeal.

An appeal is allowed in this case, returnable to the Supreme Court of the United States the first Monday of December next, the appellant giving bond in the sum of one thousand dollars, with good and solvent security,
183 conditioned as the law directs.

April 16th, 1864.

E. H. DURELL, *Judge.*

Appeal bond, filed April 16th, 1864.

United States of America, eastern district of Louisiana, district court of the United States, in admiralty.

UNITED STATES
vs.
SCHOONER FLYING SCUD AND CARGO. } No. 7,678.

Know all men by these presents that we, Jules Aldige as principal, and Paul Aldige as surety, are held and firmly bound unto the United States of America in the sum of one thousand dollars, to be paid to the said United States of America, for the payment of which, well and truly to be made in lawful money of the United States, we bind ourselves and each of us, our and each of our heirs, executors, administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated at New Orleans the 16th day of April, 1864.

184 Whereas the above-named Jules Aldige has appealed to the next December term of the Supreme Court of the United States from a final judgment of the district court of the United States for said district, rendered against him on the fifth day of April, 1864, in the above-entitled cause:

Now, therefore, the condition of this obligation is such that if the above-named appellant shall prosecute his appeal to effect and answer all damages and costs and satisfy whatever judgment may be be rendered against him if he fails to make his appeal good, then this obligation to be void; otherwise, the same shall be and remain in full force and effect.

J. ALDIGE. [L. S.]
P. ALDRIGE. [L. S.]

Paul Aldige, surety being sworn, says he is worth the sum of $1,000 over and above all his liabilities.

P. ALDIGE.

Sworn to and subscribed before me this 16th April, 1864.
K. LOEW, *D'y Cl'k.*

185 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
SCHOONER FLYING SCUD AND CARGO. } No. 7,678.

The United States of America to the officers and crew of the steamer Princess Royal, captors, greeting:

You are hereby cited and admonished to be and appear before a Supreme Court of the United States, to be holden in the city of Washington, District of Columbia, on 1st Monday of December next, to answer the appeal taken by B. Caymari, Jules Aldige, and Lopez y Santos Coy, claimants in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said claimants on 5th April, 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 16th day of April, in the year of our Lord 1864, and the 88th of the American independence.

E. H. DURELL, *Judge.*

186 Received April 18th, 1864. Served personally April 20th, 1864.
J. A. NOBLE, *D'y U. S. Marshal.*

187 *Citation of appeal.*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

The United States of America to the United States of America, greeting:

You are hereby cited and admonished to be and appear before a Supreme Court of the United States, to be holden in the city of Washington, Dist. of Columbia, on the first Monday of December next, to answer the appeal taken by B. Caymari, Jules Aldige, and Lopez y Santos Coy, claimants in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said claimants on 5th April, 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 16th day of April, in the year of our Lord 1864, and 88th of the American independence.

E. H. DURELL, *Judge.*

188 Rec'd April 18th, 1864. Served personally same day.

J. A. NOBLE, *D'y U. S. Marshal.*

189 *Citation of appeal*

United States district court, eastern district of Louisiana.

UNITED STATES
vs.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

The United States of America to the officers and crew of the U. S. st'r Cayuga, claiming share in the capture, greeting:

You are are hereby cited and admonished to be and appear before a Supreme Court of the United States, to be holden in the city of Washington, District of Columbia, on the first Monday of December next, to answer the appeal taken by B. Caymari, Jules Aldige, and Lopez y Santos Coy, claimants in this cause, and that you show cause then and there, if any there be, why the judgment rendered against the said claimants on 5th April, 1864, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable E. H. Durell, judge, this 16th day of April, in the year of our Lord 1864, and the 88th of the American independence.

E. H. DURELL, *Judge.*

190 Rec'd April 18th, 1864. Served personally 20th April, 1864.

J. A. NOBLE, *D'y U. S. Marshal.*

191 *Writ of venditioni exponas to sell vessel, issued April 15th, 1864.*

Consent relative to appeal, filed April 23rd, 1864.

U. S. district court.

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

It is agreed that, notwithstanding three distinct appeals are taken in this case, one transcript of the record shall suffice, and may be used in the Supreme Court of the United States by either of the parties to the suit.

New Orleans, April 18th, 1864.

C. ROSELINS, *Proctor for Appellants.*
RUFUS WAPLES, *U. S. District Attorney.*

192 *Appraisers' report.—Appraisement of vessel, filed April 30th, 1864.*

NEW ORLEANS, *April 28th*, 1864.

SIR: We, the undersigned, duly appointed appraisers, have examined the schooner Flying Scud, captured in the Gulf of Mexico, and are of opinion that the actual market value or wholesale price of the said vessel at this time is, and we do therefore appraise the same, as follows:

After a careful examination of the vessel now lying opposite post 39, first district, we find she is 92 feet 2 tenths length on deck, 23 feet 7 tenths breadth of beam, and 6 feet 7 tenths depth of hold; tonnage, English measurement, 141 48-100 tons; registered at Nassau, N. P.; she was built in Talbot County, Maryland, in 1857; she is a schooner, 1 deck, 2 masts, square stern, billet head; she has a white-oak frame, yellow-pine beams and binding, single deck, half poop and trunk; is copfastened and coppered; is in good order and well found in sails, rigging, and ground tackle, (2 anchors and 2 chains,) and boats; carries a large cargo; draws 8 feet of water loaded, and brought into this port, on her capture, 205 bales of cotton; was surveyed and rated by the New York underwriters
193 in December, 1862, and resurveyed and rated by the New Orleans insurance companies here on the 25th of April 1864; is a fine vessel, and at this time we appraise her at nine thousand dollars ($9,000 00.)

H. G. HEARTT,
CHAS. CLAIBORNE, *U. S. Appraisers.*

TO JAMES GRAHAM, *U. S. Marshal.*

Appraisers' bill, filed April 30th, 1864.

In the matter of the sch'r Flying Scud and cargo to appraisers' office, Dr:

APRIL 30th, 1864.

For appraisement of schooner Flying Scud, &c., $10,130 05, at 1 per cent..... $101 30

Received payment.
N. O., April 30th, 1864.

194 *Marshal's bill, filed April 30th, 1864.*

U. S. MARSHAL'S OFFICE, *New Orleans, April 29th*, 1864.

District court of the United States, eastern district of Louisiana.

UNITED STATES
vs.
SCH'R FLYING SCUD, &C. } No. 7,678.

Certified statement of marshal's fees.

1863.		
Dec'r 5.	Bill of costs and charges to date.....	$189 50
16.	2 notices of trial, 4 00; bill, Keen & Stanly disc'g 19 b. c., 3 75.....	7 75
	Bill, Keen & Stanley, mooring vessel.....	4 00
1864.		
M'ch 7.	4 notices of trial.....	8 00
April 15.	Venditioni exponas for vessel, $2 00; and adv. sale in "Times," 6 00; engros'g copy, 50 c.....	8 50
18.	Notifying auctioneer to sell.....	1 00
	Citation of appeal to Supreme Court for dist. att'y and captors, and ret.....	4 00

	22.	Taking inventory and recording, $5; superintending disc'g cargo, 5 00	$5 00
		Bill, 2 laborers, 1 day each, at 1 00 per day	4 00
	26.	Bill, Wm. P. Noble, drayage to warehouse	1 50
	27.	Bill, Keen & Stanley, stevedores, disc'g cargo	51 90
	28.	Order district attorney to deliver clothing	2 00
		Paid for labor in warehouse	1 00
		Commiss. on sale of vessel, $101 00; com'n on entire disbursement, 7 80	108 80
		Bill of James Murphy, drayage on cargo entire	51 50
		Preparing for sale, 5 00; attendance at sale, 5 00; delivery, 5 00	15 00
		Marshal's charges of custody from Sept. 5 to Dec. 12, 1863, 99 days, at 2 50	247 50
		Marshal's charges of custody from Oct. 15, '63, to April 28, 1864, 197 days, at 2 50	492 50
		3 proc. at sale, 90 c.; order of keeper to release, 1 00; and ret. on vend. ex's, 1 00	2 90
195	29.	3 summons before U. S. com'r for 2nd May, 5 p. m.	1 50
			1,212 85
1863.			
Dec.	5	Cr., by cash, costs and charges rec'd on ac. 19 bales cotton	189 50
		Balance due U. S. marshal to date	1,023 35

Venditioni exponas, issued April 15, '64, *returned May* 2*nd*, '64.

United States district court, eastern district of Louisiana.

The President of the United States of America to the marshal of the eastern district of Louisiana, or either of his deputies, greeting:

Whereas, at a district court of the United States, holden at New Orleans, for and within said district, on the 5th day of April, A. D. 1864, the schooner Flying Scud, her tackle and apparel, were, after due proceedings, decreed forfeit, and ordered to be sold at public auction: These are, therefore, to command you to sell to the highest bidder, at public auction, at U. S. warehouse, No. 38 and 40 Old Levee st., within said district, on the twenty-eighth day of April at 12 o'clock m., the said schooner, first giving ten days'
196 notice at least of the time and place of sale by advertising the same in one of the newspapers printed at New Orleans, and by proclamation in the usual form on the day of sale; the money arising from the sale to be deposited with the assistant treasurer of the United States in this city, to be disposed of as the law in this case directs. And make due return hereof with your doings herein.

Witness the Honorable E. H. Durell, at New Orleans, this 15th day of April, A. D. 1864, and 88th year of the independence of the United States of America.

[SEAL.] K. LOEW, *D'y Clk.*

Marshal's return.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

NEW ORLEANS, 30*th April*, 1864.

Pursuant to this precept I have caused the schooner Flying Scud, her tackle, &c., within named, to be sold by public auction and to the highest

bidder, at the city of New Orleans, on the day, hour, and place therein directed, having given ten days' previous notice of the time, place, and manner of the sale in the N. O. Times, one of the newspapers printed in New
197 Orleans, and by the crier on the day of sale; and at such sale the purchasers were as shown by the proces verbal of Phinney & Amory, U. S. prize auctioneers, annexed as a part hereof.

(Annexed.)

We, Phinney & Amory, U. S. prize auctioneers, do hereby certify that under and by virtue of a writ of venditioni exponas of the hon. district court of the United States for the eastern district of Louisiana, directed to the U. S. marshal for the district aforesaid, in suit by the United States *vers.* Schooner Flying Scud, her tackle, &c., No. 7,678 of the docket of the said court, we offered the said schooner Flying Scud for sale at public auction on Thursday, 28th April, 1864, at 12 o'clock m., at the U. S. marshal's warehouse, No. 38 and 40 Old Levee st., at which sale the same was sold for cash, to the parties, in the lots, and at the prices set forth, as follows, viz:

Arch'd Montgomery, sch'r Flying Scud, her tackle, apparel, and furniture	$10,100 00
C. Robinson, one quadrant	18 25
A. West, one lot charts	3 50
C. Robinson, one trumpet	1 00
P. James, one lot books	1 00
Cash, one writing desk	1 75
198 J. Pen, one medicine chest and contents	1 00
A. West, 2 flags	1 50
Cash, 1 bill of exchange	05
Jas. Macheca, 20 dollars uncurrent money	2 00
	10,130 05

PHINNEY & AMORY, *U. S. P. Auct'rs.*

Whereby the gross sales amounted to ten thousand one hundred and thirty dollars and 5 cents, which I pay over to A. C. Graham, cashier 1st National Bank, N. O., to be disposed of as the court directs.

Attest: JAMES GRAHAM, *U. S. Marshal.*

Received from James Graham, U. S. marshal, ten thousand one hundred and thirty dollars and 5 cents, being (as he saith) the gross proceeds of the aforegoing sale; the monies to be disposed of as the court directs, and for which I have signed duplicate receipts.

N. O., April 30th, 1864.

A. C. GRAHAM, *Cash'r.*

199 *Auctioneers' bill and charges, filed May 2nd, 1864.*

The United States to Phinney & Amory, Dr.

Charges on sch'r Flying Scud, April 28th, 1864:

To advertising	$22 50
To labor	5 00
To commission for selling schooner	25 00
To commission of 1 per cent. on 30 15	30
	52 80

N. O., April 30th, 1864.

Report of attorney for captors, filed May 4th, 1864.

United States district court.

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

To the Honorable Edward H. Durell, judge:

The report of D. Augustin, attorney appointed for captors, respectfully shows:

That the schooner Flying Scud was captured by the U. S. st'r Princess
200 Royal, Commander M. B. Woolsey, on 12th August, 1863; that the prize had no arms or ammunition, and consequently was of inferior force to the capturing vessel; that W. H. Dana, lieutenant commanding the U. S steamer Cayuga, claims that his vessel was present at the capture; that owing to the absence of the officers and crew of both steamers, it has been impossible to establish the respective rights of the captors, which it is prayed this honorable court will reserve in the decree of distribution to be established upon the return in this city of the officers and crew of the Princess Royal and of the U. S. st'r Cayuga.

Respectfully submitted.

D. AUGUSTIN, *Att'y for Captors.*

201 *Taxation of costs, from minutes of May 4th, 1864.*

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

It is ordered, adjudged, and decreed that the costs, fees, and charges in this case be taxed and allowed, and paid out of the funds on deposit, as follows, to wit:

District attorney	$2, 156 40
Marshal's costs and disbursements	1, 212 85
Clerk's costs	193 45
Auc'r Hall, for selling damaged cotton	54 77
App'rs H. and C. on damaged cotton	86 00
App'r R. Swain	5 00
App'rs H. and C. of vessel	101 30
Auct'rs Phinney & Amory for sale of vessel	52 80
Prize commissioners	300 00
D. Augustin, att'y for captors, 1½ per cent	151 50
Registrar's commission	50 27
Reserved expenses	50 00
	4, 414 34

202 *Order for a commission, from minutes of May 5th, 1864.*

UNITED STATES
vers.
SCH'R FLYING SCUD, &c. } No. 7,678.

On motion of D. Augustin, attorney for captors in the above case, and on suggesting to the court that the capturing vessel, the steamer Princess Royal and the st'r Cayuga, whose commander claims a share in the prize, are absent from this port, and are now at Key West, it is ordered that a com-

mission issue, addressed to any magistrate or commanding officer at Key West, to take the testimony of the officers of the U. S. str's Princess Royal and Cayuga, in relation to the claim of the latter for a share in the proceeds of the above prize.

The testimony so taken to be returned, addressed to the clerk of the United States district court for the eastern district of Louisiana, on or before the 2nd Monday in June next.

203 *Venditioni exponas to sell cargo, issued May 13th, 1864.—Two commissions, issued May 13th, 1864.*

Interrogatories to U. S. st'r Princess Royal, filed May 16th, 1864.

United States district court for the eastern district of Louisiana.

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO.

Interrogatories to be answered by Cap't M. B. Woolsey, and other officers of the U. S. st'r Princess Royal.

Interrrogatory 1st. Please to state whether the United States steamer Cayuga, Lieut. Wm. H. Dana comd'r, was present at the capture of
204 the prize schooner Flying Scud, on the 12th August, 1863, by the U. S. st'r Princess Royal, Capt. M. B. Woolsey comd'r. State whether the st'r Cayuga was within signal distance, or within sight of the prize. If within sight, at what distance in miles. Please also to state and to designate what other United States armed vessel, if any, was within signal distance, or within sight at the time of the said capture. If in sight, at what distance in miles.

Interrogatory 2nd Please to state whether the steamer Princess Royal had reported to the naval commander at New Orleans previous to the said capture. At what time? What was his name?

Interrogatory 3rd. Please to explain exactly what is meant by signal distance. To what limit does it extend. At what distance at sea can signals be read? Was the weather clear or not at the time of capture of the Flying Scud? Could signals from the U. S. st'r Cayuga be easily seen? Please to state all circumstances which may be connected with the relative rights of the U. S. armed vessels, if any, which may have participated in the capture of the schooner Flying Scud, the same as if you were thereto specially
205 interrogated.

D. AUGUSTIN, *Attorney for Captors.*

Interrogatories to U. S. st'r Cayuga, filed May 16th, 1864.

U. S. district court, eastern district of Louisiana.

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO.

Interrogatories to be answered by Lieut. W. H. Dana and other officers of the U. S. steamer Cayuga.

Interrogatory 1st. Please to state whether the U. S. st'r Cayuga was present at the capture of the prize schooner Flying Scud, on the 12th August, 1863, by the United States steamer Princess Royal, Commander M. B. Woolsey. State if the st'r Cayuga was within signal distance or within sight of the

prize. If within sight, at what distance in miles from the said prize.
206 Please also to state and to designate what other United States armed vessel, if any, was within signal distance, or within sight at the time of the said capture. If within sight, at what distance in miles.

Interrogatory 2nd. Please to state whether the steamer Cayuga had reported to the naval commander at New Orleans previous to the said capture; at what time previous, and give the name of the said commander.

Interrogatory 3rd. Please to state exactly what is meant by signal distance. To what limit does it extend? Please to state all the circumstances which may be connected with the respective rights of the United States armed vessels, if any, which may have participated in the capture of the schooner Flying Scud, the same as if you were thereto specially interrogated.

D. AUGUSTIN, *Attorney for Captors.*

207 *Return to venditioni exponas of cargo, filed May 31st, 1864.*

United States district court, eastern district of Louisiana.

The President of the United States of America to the marshal of the eastern district of Louisiana, or either of his deputies, greeting:

Whereas, at a district court of the United States, holden at New Orleans, for and within said district, on the 5th day of April, A. D. 1864, the schooner Flying Scud and cargo were, after due proceedings, decreed forfeit and ordered to be sold at public auction, these are therefore to command you to sell to the highest bidder, at public auction, at New Orleans, within said district, on the twenty-sixth day of May, at 12 o'clock m., the said cargo, (the vessel having already been sold under the judgment,) first giving ten days' notice at least of the time and place of sale, by advertising the same in the N. O. Times, one of the newspapers printed at New Orleans, and by proclamation in the usual form on the day of sale. The money arising from the sale to be paid in the First National Bank of New Orleans, to be disposed
208 of as the law in this case directs, and make due return hereof, with your doings herein.

Witness the Honorable E. H Durell, at New Orleans, this 13th day of May, A. D. 1864, and 88th year of the independence of the United States of America.

[SEAL.] K. LOEW, *D'y Clerk.*

Marshal's return.

UNITED STATES OF AMERICA, *Eastern District of Louisiana:*

NEW ORLEANS, *May 28th*, 1864.

Pursuant to this precept, I have caused the cargo of the schooner Flying Scud within named, to be sold by public auction, and to the highest bidder, at the Planters' Press, cor. Annunciation and Richard st's, on the day, hour, and place therein directed, having giving ten days' previous notice of the time, place, and manner of the sale in the N. O. Times, one of the newspapers printed in New Orleans, and by the crier on the day of sale. And at such sale the purchasers were as appears by the proces verbal of Messrs. Phinney & Amory, U. S. prize auctioneers, hereto annexed, and made a part of this return.

(Annexed.)

Proces verbal of auctioneer.

We, Phinney & Amory U. S. prize auctioneers, do hereby certify that under and by virtue of a writ of venditioni exponas of the hon. dis-
209 trict court of the United States for the eastern district of Louisiana, directed to the U. S. marshal for the district aforesaid, in suit by the

United States *vers.* schooner Flying Scud and cargo, No. 7,678 of the docket of the said court, we offered the cargo of said schooner Flying Scud at sale by public auction, on Thursday, 26th day of May, 1864, at 12 o'clock m., at Planters' Cotton Press, corner of Annunciation and Richard streets, at which said sale the same was sold for cash, to the parties, in the lots, and at the prices set forth as follows, to wit:

Alfred Moulton, 32 bales cotton, strict low middling, 13,137 lbs., at 80¾c	$10,608 12
Alfred Moulton, 29 bales cotton, good ordinary, 11,632 lbs., at 78¾	9,160 20
Thos. Lunn, 25 bales cotton, ordinary, 10,254 lbs., at 74⅛	7,690 78
P. Conroy, G. 15 bales cotton, damaged, $302 50	4,537 50
Edw'd Watts, H. 15 bales cotton, damaged, $305 00	4,575 00
D. Haggerty, I 15 bales cotton, damaged, $310 00	4,650 00
D. Mushet, J. 15 bales cotton, damaged, $287 50	4,312 50
A. B. Selye, K. 15 bales cotton, damaged, 310 00	4,650 00
J. C. Wilmer, L. 12 bales cotton, damaged, 278 00	3,336 00
Edw'd Watts, 6 crates loose cotton, partially damg'd	795 00
Jno Windelkin, 13 dry hides, 320 lbs., at 16c	51 20
	54,276 30

PHINNEY & AMORY, *U. S. P. A.*

Whereby the gross sales amounted to fifty-four thousand two hundred and seventy-six dollars thirty cents, which I pay over to the First National Bank in New Orleans aforesaid, to be disposed of as the court directs.

210

Attest: JAMES GRAHAM, *U. S. Marshal.*

Received from James Graham, U. S marshal, fifty-four thousand two hundred and seventy six dollars and thirty cents, being (as he saith) the proceeds of the aforegoing sale, the monies to be disposed of as the court directs, and for which I have signed duplicate receipts.

New Orleans, May, 186 .

A. C. GRAHAM, *Cash'r.*

Auctioneers' bill, filed May 31st, 1864.

United States to Phinney & Amory, Dr, charges on cargo of schooner Flying Scud.

May 26. For advertising	$25 00
Labor	25 00
Commission, 1 per cent. on $10,000 is	100 00
Commission, 4-10 per cent. on balance, 44,276 30	177 10
	327 10

May 26th, 1864.
Rec'd payment.

211 *Marshal's bill, (additional,) filed June 7th,* 1864.

U. S. MARSHAL'S OFFICE, *New Orleans, June 6th,* '64.

UNITED STATES *vs.* SCH'R FLYING SCUD, &c. } No. 7,678.

May 13th. To venditioni for cargo and copy for printer	$2 50
Publishing sale in N. O Times	6 00

May 14th.	Notifying auctioneers to sell	$1 00
27.	Bill, Planters' Press, storage on 173 bales	71 60
	Preparing for attendance at delivery after sale	15 00
	Commission on sale of cargo	250 00
	Commission on disbursements	1 99
	3 proclamations at sale, 90c; ret, on vend. exp. 1,00	1 90
June 3rd.	Bill of D. Shearer, gov't weigher, 86 bales	21 50
		370 89

Appraisers' report, filed June 3rd, 1864.

NEW ORLEANS, *May 26th*, 1864.

SIR: We, the undersigned, duly appointed appraisers, have examined the cotton per Flying Scud, and are of opinion that the actual market value or wholesale prices of the said cotton (this day,) and we do therefore ap-
212 praise the same, as follows:

1-32.	32 bales "strict low middling" cotton, 13,137 lbs., 82c	$10,772 34
1-29.	29 bales "strict good ordinary" cotton, 11,632 lbs., 78c	9,072 96
1-25.	25 bales "ordinary" cotton, 10,254 lbs., 73c	7,845 42
	— bales sound, more or less mixed.	
	86	

Damaged.

G. 1-15.	15 bales damaged 17 per cent., 450 lbs. each, 75c	4,202 25
H. 1-15.	15 bales damaged 17 per cent., 450 lbs. each, 75c	4,202 25
I. 1-15.	15 bales damaged 16 per cent., 450 lbs. each, 75c	4,252 50
J. 1-15	15 bales damaged 16 per cent., 450 lbs. each, 75c	4,252 50
K 1-15.	15 bales damaged 15 per cent., 450 lbs. each, 75c	4,303 50
L. 1-12	12 bales damaged 12 per cent., 450 lbs. each, 75c	3,564 00
6 crates cotton loose in lot		1,800 00

Recapitulation

86 bales sound, 87 bales damaged, 6 crates loose cotton. 1 quadrant, $12; 1 trumpet, 2; 1 writing desk, 2; lot of books, 2	18 00
2 flags; 1 lot of charts	15 00
	53,940 72

H. G HEARTT,
CHAS. CLAIBORNE,
U. S. Appraisers.

To JAMES GRAHAM, ESQ., *U. S. Marshal.*

213 *Appraisers' bill, filed June 3rd*, 1864.

JUNE 3*d*, 1864.

In the matter of the sch'r Flying Scud and cargo to appraisers' office, DR.

For appraisement of cargo of sch'r Flying Scud, 173 bales and 6 crates cotton, $54,276 30, at 1 per cent	$542 76
Labor paid moving, probeing, assorting, yard and press expenses, sampling, marking numbering, and classification	542 76
Total	1,085 52

Additional taxation of costs, from minutes of June 9th, 1864.

UNITED STATES
vers.
SCH'R FLYING SCUD AND CARGO. } No. 7,678.

It is ordered, adjudged, and decreed that the additional costs and
214 charges arising from the sale of the cargo in this case be taxed, allowed, and paid out of the fund on deposit as follows, to wit:

Marshal	$371 49
Clerk	13 80
Phinney & Amory, auctioneers	327 10
Appraisers H. & C., 1½ per cent	814 14
D. Augustin, att'y for captors, 1¼ per cent	678 40

215 United States district court, eastern district of Louisiana.

I, Kilian Loew, deputy clerk of said court, hereby certify that the foregoing 214 pages contain and form a true, correct, and complete transcript of the original record of said court, in the case of the United States *vs.* the schooner Flying Scud and cargo, No. 7,678 of the docket.

In testimony whereof, I hereto set my hand and the seal of our said court, at New Orleans, on this 11th day of June, A. D. 1864, and the 88th year of the American independence.

K. LOEW, *D'y Clk.*

Filed December 5, 1864.

SUPREME COURT OF THE UNITED STATES.

No. 33.

THE SCHOONER FLYING SCUD AND CARGO, B. CAYMARI, JULES ALDIGE, AND LOPEZ Y SANTOS COY, CLAIMANTS AND APPELLANTS.

vs.

THE UNITED STATES.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

Brief and Points for Claimants of Cargo, Appellants.

SACKETT & MACKAY, PRINTERS, 46 PINE STREET, NEW YORK.

Supreme Court of the United States.

BERNARD CAYMARI and others, *Appellants*, claimants of cargo,

vs.

THE UNITED STATES, *Appellees.*

Statement and Points for Appellants.

This case comes here on appeal from the Eastern District of Louisiana, from a decree condemning the appellants' cargo.

The case presented below was this: The schooner *Scud* and cargo (the latter consisting of cotton) were seized on the 12th day of August, 1863, off the mouth of the Rio Grande, by the U. S. steamer *Princess Royal* (fol. 5). The officers of this vessel and other United States officers had seen the *Scud* at anchor in the same place for a month before (fols. 68, 69), before she commenced taking in cargo The *Scud* had performed a voyage from Nassau to Matamoras, then to Brazos and back to Matamoras (fol. 17); the cargo up to Brazos being in part contraband.

The evidence shows no blockade of Brazos, while the *Scud* was there, nor at any time near the time she was there.

She was seized while lying at the Rio Grande taking in cargo from Matamoras, after she had been seen, at the same place for a month, by U. S. vessels, and in reach of capture all that time.

The *Scud* was a neutral vessel, belonging to British subjects (fols. 9, 14, 19, 57).

The cargo was claimed by Bernard Caymari, Lopes y Santos Coy, Jules Aldige and John D. Merriellis (pages 18 to 23). All the claimants and owners were neutral aliens.

The testimony in preparatoria is that of Muller (p. 4), of Milner (pp. 5, 6), and of Smith (pp. 7–9).

Further proof was allowed and made in the first instance as follows:

M. B. Woolsey for the U. S., pp. 24, 25 and 26.

T. C. Haggart for same, pp. 25 and 26.

Richard L. Woolsey for same, pp. 26 and 27.

James H. Titus for same, pp. 26, 27 and 28.

Testimony taken under commission for Caymari, pp. 39 to 41. For Lopes y Santos Coy, pp. 42 to 45; for Jules Aldige, pp. 45 to 48.

The testimony proving the nationality of the vessel, and the foregoing statements, is clear and conclusive.

The cargo was condemned for the reason that the vessel was in blockaded water and because she had carried contraband.

POINTS.

First.—The testimony clearly proves that all the claimants were residing at Matamoras—that all of the cargo was loaded from Matamoras, and did not at any time, after being in possession of the shipper, pass into any blockaded territory with the knowledge of the shipper. The proof is equally clear that all the cargo was bought in Matamoras (see testimony, pp. 38, 42, 45). The claimants might rightfully buy any cotton they found in Matamoras, no matter where it came from.

Second.—Not only is there an entire absence of testimony tending to charge the claimants with knowledge of any illegal act on the part of the vessel, but the evidence produced shows clearly that they had no such knowledge. The shippers were 45 miles from where the vessel lay, and could not be presumed to have known what she had been engaged in. They found her and a great number of other vessels seeking freight, and they might properly employ her.

Third.—It is very clearly established by the testimony that the *Scud* was seen by her captors before she commenced loading, and before the claimants had put their cotton on board, lying at anchor in the same place where she was seized, and no efforts to seize her were made.

This would very naturally lead all parties to believe that a vessel left thus unmolested was not in fact in blockaded waters, but where she had a right to be—in neutral waters. After acting in such a manner as to create this belief, and thus induce innocent neutral shippers to place their goods on board, it would be manifestly wrong to justify their seizure.

Such conduct would not be tolerated in the English Prize Court.

In the case of the *Neptunus*, 2 Rob., 110, the Court held that when a vessel of the capturing nation had misled the neutral vessel, the captured property should be discharged, although in fact she had violated the law.

The mode of procedure in, and the rules of evidence applicable to prize cases being harsh and extraordinary, the captors must be held to good faith.

The *Triton*, 4 C. Rob., 78, 79. Extraordinary conduct unexplained is liable to severe censure. 2 Dodson, 240. In this case no attempt is made to explain why they did not attempt to capture until neutral shippers' rights had intervened and a large and valuable cargo had been put on board from a neutral port.

FOURTH.—All trade between neutral ports in time of war is valid, with two exceptions (that is, neutral as to the trade):

1st. To blockaded ports.

2d. With contraband.

Was the *Scud* liable to forfeiture at the time of her seizure?

It is respectfully submitted, that as to the latter exception, the trade is legal unless the party is caught while actually carrying the cargo and with it on board.

Upton (3d Ed.), 329.—It would seem to be clear that the capture can only be made where the vessel has the contraband on board; with it, she can be seized anywhere.

When she has unloaded her cargo, left the port, and returned to another, that offence is purged—the same as when a vessel has run a blockade and ended her then voyage, the crime is purged.

It is submitted that the voyage to Matamoras with the powder was legal, inasmuch as the vessel was not stopped; and that the voyage with it to Brazos and back to Matamoras was a whole voyage and ended, when she got back.

It is contended, so far as the cargo is affected by it, that the vessel broke no blockade.

1. As to Brazos, there is not the slightest evidence in the case of there being at any time, certainly not near the time the vessel went into, was at, or came out of Brazos, any blockade of that port.

A mere declaration of blockade is not enough, except it is accompanied with the force and ability to maintain it, and actually such force is employed.

This principle could not be more clearly stated than it is in the words of a naval captor's Counsel who would not state it too stringent for them.—Upton (3d Ed. 275–6).

"However clear and indisputable may be the right of "blockade, and however necessary may be the exercise "of the right, it must nevertheless be conceded to be one "of the harshest measures in its operation of any known "in the international code. It is for this reason that, by "the uniform practice of the tribunals of all countries "upon whom the duty devolves of giving effect to its "provisions, certain requisites have been required to be "established, in order to impart to the exercise of the "right its full force and validity. These requisites are "deemed so indispensable to the legal existence of a "blockade, that the failure of either one of them has "been uniformly considered to operate as an entire defeat "of the measure, notwithstanding it may have been or-"dered and proclaimed by the supreme law of a nation.

"These requisites are clearly stated by Lord Stowell to "be

"*First.* The existence of an *actual* blockade.

"*Second.* The *knowledge* of the party against whom "proceedings are taken for its violation.

"*Third.* Some act of violation, either by going in or "coming out with a cargo laden after its commencement "of the blockade."

Again at page 277.

"But not only can no blockade exist as a legal fact "which has not been declared * * * but "it must also *have an actual physical* existence;" and the remarks following and the cases he cites fully bear this out.

Tested by the above rules, it is clear there was no blockade of Brazos.

In 3 Rob., 156, it is said, "It is vain for Governments "to impose blockades if those employed on that service "do not enforce them."

Again, if a blockade of Brazos did exist, even then the voyage of the *Scud* ended at Matamoras, and she could not be seized after she had commenced a new undertaking.

The rights of neutrals are entitled to some respect, and are not to be taken from them by the artifice of the captors by which they are misled and deceived.

In this case, the captors having had ample opportunity to seize the vessel after her alleged violation, it would be unjust to allow them to wait until her cargo should be on board and then seize her.

2. As to alleged violation of the blockade of the Rio Grande, no blockade of trade existed with Matamoras or is claimed; none was ever declared; none was ever attempted; certainly not attempted by any capture, and a hundred vessels lay about there to trade with it; our own mills were drawing their supplies from there.

Where, as in this case, a stream runs between the two countries, a vessel being at anchor subject to the wind or current swinging her into or off water, perhaps on the blockade, no breach of blockade can be held—*intent* is needed even in breach of blockade.

The party cannot break a blockade without *intent*, and where, as here, they were loading from Matamoras, and the cargo is shown to come from there, they cannot be held to violate it or intend so to do.

To show the negative of this, that no breach existed, the evidence is abundant.

1. Was there any reason or desire to violate?

Every one knew violations were followed by loss, and it being his interest to avoid the loss, and the captain having no need to use Texas waters, being then loading from Matamoras, there was no reason why he should desire to violate it.

2. All the witnesses for the claimants show that the vessel was in Mexican waters.

3. The fact that the United States permitted these claimants to put their cargo on board in plain sight and reach of capture shows that they did not think the place was blockaded.

Judge Durell is severe on the witnesses for claimants; he seems to have overlooked entirely that the captors lay by watching innocent cargo from a neutral port going on board the vessel, and when they found her full of property, loaded in plain sight, they seized her.

We submit that such conduct, where the person so seizing is to get a large share, subjects his testimony to great suspicion, that such conduct is not to be upheld, and that strictures on such testimony would have more weight than on that of the claimants' witnesses who had no direct money interest.

It would seem clear, on a fair analysis of the evidence under the authorities, that no breach of blockade existed which can be brought home fairly against this cargo; these proceedings are not in nature of a drag net for the benefit of captors or to make money, but to prevent and punish violations of national law, and to condemn those only who willfully or with intent commit a breach.

FIFTH.—So far as the cargo is concerned, we say with the Court in the Bermuda, 3 Wall, 514. No trade honestly carried on between neutral ports, whether of the same or different nations, can be lawfully interrupted by belligerents.

It is submitted on behalf of the cargo, that in this case, where the claimants resided and dealt at Matamoras, with which port trade was carried on by our citizens, and from which most of the cotton came that supplied our mills during the war—where the claimants shipped their cotton in the presence of the United States officers, and without any notice—a decree condemning that property is unjust, and should be reversed.

B. F. DUNNING,
CH. DONOHUE,
of Counsel for Claimants of Cargo.

In the Supreme Court of the United States,

DECEMBER TERM, 1867.

The Schooner FLYING SCUD and Cargo, B. CAYMARI, JULES ALDIGE, and LOPEZ & SANTOS COY, claimants and appellants,

vs.

UNITED STATES.

No. 33.

THE CASE.

The Flying Scud, a schooner of 141 tons burden, with a cargo of about 205 bales of cotton, was captured on the 12th of August, 1863, off the mouth of the Rio Grande, in American waters, by the U. S. S. "Princess Royal," under command of Captain M. B. Woolsey. She was brought into New Orleans for adjudication, and libelled, with her cargo, as prize of war on September 5, 1863.

On September 19, 1863, John Douglas Merrielies, an alleged British subject residing at Nassau, claimed the vessel as agent for, and on behalf of, BENJAMIN WOOLEY HART, an alleged British subject, residing in London. (Rec., p. 23.)

On the same day three separate claims were filed for several portions of the cargo.

LOPEZ & SANTOS COY, alleged citizens of Mexico, residing at Matamoras, through their agent, Emile Roques, of New Orleans, claimed 36 bales of cotton, alleging that the same were shipped by them on August 3, 1863, on a consignment to Messrs. L. Will & Co., of Havana. (Rec., p. 18.)

BERNARD CAYMARI, an alleged Spanish subject, residing at Matamoras, through his agents, De Goicouria & Co., of New Orleans, claimed 137 bales of cotton, alleging that the same were owned and shipped by him (Caymari) on August 3, 1863, on board the schooner upon a consignment to Messrs. Coppinger & Co., of Havana. (Rec., p. 19.)

JULES ALDIGE, an alleged French subject, residing at Matamoras, through his agent, Joseph Bayle, of New Orleans, claimed 38 bales of cotton, alleging a shipment of the same on August 6, 1863, on board this vessel, and its consignment to Mr. P. Martin, of Havana. (Rec., p. 21.)

It will be observed that there is nothing equivalent to the ordinary averment of the test affidavit in any one of these claims. The allegation in each case is simply of the ownership of the claimant, without any denial of enemy or hostile interest in the property.

On September 28 the case was heard in the court below on the preparatory proof and papers, when further proof as to the position of the vessel at the time of capture was taken in open court, and introduced on behalf of the United States. The court thereupon allowed the claimants to issue commissions and take the testimony of witnesses on behalf of the vessel and cargo. (Rec., p. 24.)

On March 16, 1864, the case came on for a further and final hearing upon the evidence *in preparatorio*, and the testimony taken under the order for further proof. (Rec., p. 58.) On the part of the United States the further proof consisted of the testimony of Captain Woolsey and other witnesses as to the position of the vessel in American waters at the time of capture. On the part of the claimants of the vessel and cargo, the further proof consisted of the depositions of numerous witnesses taken under commissions directed to the United States Consul at Matamoras, and certain documents relating to the cargo and its destination, in the possession of the claimants or their agents at New Orleans. (Rec., p. 58.)

On April 11, 1864, the court rendered a decree condemning vessel and cargo as lawful prize of war. (Rec., pp. 62, 63.)

Appeals were thereupon taken to this court by the several claimants of the *cargo*. No appeal was taken by the claimant of the *vessel*. (Rec., pp. 63–68.)

The case of the CARGO is, therefore, alone here for final adjudication.

HISTORY OF THE VOYAGE.

The Flying Scud, at the time of capture, was under a British register, issued at Nassau on November 24, 1862, which described her as, at that date, owned by James Thompson, of Liverpool. By the endorsements upon the register it appears that she subsequently, November 29, 1862, became the property of Henry Rowland Saunders, of Nassau, and afterwards, February 13, 1863, the property of Benjamin Wooley Hart, of London, residing at Nassau, who claimed her in the court below. (Rec., pp. 11, 12.)

Under the ostensible ownership of Hart, she sailed from Nassau in the latter part of February, 1863, with a cargo composed largely of contraband of war, consisting, as all the witnesses testify, of tin, corn, soda, horseshoes, and *powder*, on an ostensible voyage to Matamoras, but with a real destination, as will be seen, to the coast of Texas, for the delivery of her contraband cargo within the enemy's country.

She appears to have at first anchored off the mouth of the Rio Grande, where she remained, according to the witness Smith, (Rec., p. 8,) about a week or ten days, without discharging any cargo.

She then, in the night-time, moved up to Brazos Santiago, in Texas, which is about nine miles, as proved, from the mouth of the Rio Grande, and about thirty miles from Matamoras. At that point the entire cargo was discharged and brought to Point Isabel.

The witness Smith best describes the course of this proceeding. He says: "*With the cargo named we came to Matamoras; lay there about a week or ten days; then a pilot and a captain came on board in the night and got under way about* 10 *o'clock p. m. We asked the pilot where the vessel was going, and he said a few miles down the coast. The next morning the vessel came to anchor at Brazos Santiago, in Texas. All the cargo was taken ashore and brought up to Point Isabel. When the lighter came alongside orders were given to put the fires out in the stove, as they were going to unload powder.*" (Rec., p. 8.)

The vessel appears to have remained at Brazos a long time. Smith, the seaman, says five or six weeks; but it is probable she stayed much longer.

It is proved that at Brazos she took on board at

least *eleven bales of cotton* and some *beef hides.* (Rec., p. 6, Int. 13; p. 8, Int. 11.)

The master, who was not examined *in preparatorio*, but was examined on further proof, mentions the beef hides, but denies that any other cargo was shipped at Brazos. (Rec., p. 35.) The two witnesses referred to flatly contradict him.

After landing her contraband articles in Texas, and taking on board from Brazos a portion of a return cargo, she slipped down to her former anchorage on the roadstead of the Rio Grande, and prepared to receive the balance of her cargo.

It will probably be inferred that the cargo thus received was purchased with the outward cargo from Nassau. Who owned the outward cargo does not affirmatively appear; but there is little doubt that it was the property either of Hart, who claimed the vessel, or of his alleged agent, John D. Merrielies. Merrielies, we know, was at Matamoras and in Texas while the vessel was in those waters, and corresponded with the master in the character of owner of a part of the cargo. (See his letter, Rec., pp. 13, 14.)

It seems also that in July he effected a charter of the vessel to one of the present claimants of the cargo. (Rec., p. 37.) This charter-party was not on board the vessel, but was produced on further proof.

During the months the Flying Scud lay at the Rio Grande, after her return from Brazos, she was engaged in taking on board the bales of cotton which are the subject of this proceeding. It appears, from the receipts for cargo in the record, that at least 133 bales were put on board from the Brazos warehouse. (Rec., pp. 13, 14.)

The claimants offered evidence, on further proof,

tending to show that the several parcels of cotton embraced by the bills of lading were purchased at and shipped from Matamoras, and not from the Texas side of the river. But the proof is very vague and indecisive, and the effect which it is supposed by the claimants to have will scarcely be attributed to it by this court.

It is clearly proved by the two witnesses examined *in preparatorio* that at least eleven bales of the cotton were taken in at Brazos Santiago. The same witnesses state that the residue of the cotton was put on board off the Rio Grande by lighters which came from the shore. It is not improbable that a large portion of the cargo was passed through the Matamoras custom-house, for the purpose of simulating an exportation from Mexico; but a doubt is scarcely admissible that the bulk of the cotton was brought directly from Texas, and was shipped on the vessel without any such break in the continuity of the transmission as rendered the shipment an exportation from the neutral territory of Mexico.

The documents of the cargo found on the vessel are three bills of lading, dated at Matamoras, August, 1863, expressing shipments by the respective claimants—Aldige, Lopez & Santos Coy, and B. Caymari—of the respective portions of the cotton claimed to Havana upon consignments to parties at that place. (Rec., pp. 10, 11.)

Subsequently, on further proof, the claimants gave in evidence the supposed invoices of their respective shipments, which throw no more light upon the actual ownership of the cargo than the bills of lading.

No letters of advice were found on board or offered in evidence by claimants.

It has been already stated that in July, 1863, a

month before the capture, the schooner was chartered by Merrielies at Matamoras to Benardo Caymari, one of the claimants of cargo, for a voyage to Havana. (Rec., p. 37.)

This man, Merrielies, was undoubtedly the owner of a part of the cargo, though he claims no part of it. His letter of May 2, 1863, to the master, proves this allegation. (Rec., p. 13.) His ownership of the vessel, though he claims her for Hart, is also clear, under the facts of the case. The national character and relations of this man are not shown—a most suspicious circumstance, in view of his connection with the venture and the general complexion of the case.

FIRST POINT.

The thirty bales of cotton claimed on behalf of LOPEZ and SANTOS COY, if owned by them as alleged, are clearly confiscable as *enemies' property*.

Out of their own mouths these claimants are condemned. The three witnesses examined under the order for further proof at Matamoras unite in stating that the house of Lopez & Santos Coy was a commercial house domiciled at *Brownsville* at the time of this capture, and that the thirty bales of cotton now claimed were shipped from Matamoras in the prosecution of the business of the claimants as merchants in the hostile territory. This cotton is, therefore, to be considered, under the decisions of this court, as enemies' property, and as such confiscable in a prize court.

The Prize Cases, 2 Black.

Mrs. Alexander's Cotton, 2 Wallace, 419.

The court will find the testimony of the witnesses referred to upon pages 43, 44, and 45 of the Record.

It is, of course, entirely unimportant in this view of this particular claim where the property was bought, whether in Mexico or Texas. The counsel seem to have deemed it a good defence to show that it was acquired in Mexico; but in proving that Lopez & Santos Coy were Brownsville merchants, they established a sure and fatal ground for the condemnation of this property, independently altogether of the place of its purchase. "If," says Chancellor Kent, "a person has a settlement in a hostile country by the maintenance of a commercial establishment there, he will be considered a hostile character, and a subject of the enemy's country, in regard to his commercial transactions connected with that establishment." (1 Kent, 75.)

SECOND POINT.

The one hundred and thirty-seven bales of cotton claimed on behalf of BERNARD CAYMARI, if owned as alleged, are confiscable in a prize court as property acquired and taken in the course of illicit trade with rebel enemies.

1. The further proof, adduced by this claimant, clearly shows that he was, at the time of the transaction through which the cotton he now claims was purchased and shipped, a shipping and commission merchant doing business in the city of *New York.*

The witness Gonzalo de Goicouria says:

"I am acquainted with Bernardo Caymari; have known him for three years in Havana and New York. *He is engaged in mercantile business in New York;* was engaged for a short time in the same business in Matamoras. I regard him as a merchant in good standing." (Rec., p. 40.)

The other witness in favor of this claimant, Andrew Crosas, of New York, (temporarily in Matamoras, Mexico,) swears: "I am acquainted with Bernardo Caymari; *have known him for the past five years in New York. He is engaged in the shipping and commission business in New York city.* I regard him to be a merchant in good standing." (Rec., p. 41.)

There can be no doubt, therefore, under this evidence, that whatever may have been the country of this claimant's birth, his national character is derived from the country in which he was domiciled for commercial purposes. It is not shown that he resided or did business anywhere, at the date of this capture, except in the United States, at New York, as a commission and shipping merchant. He is thus to be treated as a merchant of the United States, and affected with all the liabilities of that character.

(Wheaton, part IV., chap. 1; 1 Kent, 84. The Ann, 1 Dodson, 221.)

2. As a merchant of the United States, whether native and to the manor born, or of foreign birth, he was disabled by the law of war from holding any commercial intercourse whatever with the enemies of the United States, except under the special license of the President, and such disability attached to him whether he held such intercourse with those enemies while within or without the jurisdiction of the United States. Any temporary residence of the claimant at Matamoras for the purpose of purchasing cotton from rebel enemies in Texas and shipping it to a foreign port will not protect him from the consequences which would have followed a similar transaction on the part

of the claimant while actually resident at the city of New York.

Nor can it matter whether the cotton claimed by Caymari was shipped immediately or directly from Texas, or mediately from that state through Mexico, if it was acquired in trade or traffic with enemies. The question is not from or through what country it was shipped, but how, and from whom, it was obtained.

The Touge Plieter, 4 Rob., 82.

In that case Sir William Scott held that the property of a British subject shipped *to* the enemy, through a neutral port, was liable to condemnation. It is equally true, of course, that property shipped *from* the enemy's country, through a neutral port, by a citizen of a belligerent State, is confiscable in a prize court.

3. We contend that the claimant Caymari has not shown to the judicial satisfaction of the court, as he was bound to do under the order for further proof, that the cotton in question was acquired in lawful trade with neutrals within neutral territory, and that in the absence of such clear showing by the claimant of the integrity and legality of the transaction in which the cotton in question was obtained, after full opportunity to explain the circumstances of the traffic, the judgment of the court must be adverse to the claim as made, especially in view of the numerous facts in the case showing that the larger part of this cargo must have been brought from Texas, and the positive testimony of two unprejudiced witnesses to the shipment of at least 11 bales of the cotton found on board the vessel at Brazos Santiago. The two witnesses examined by this claimant do swear that Caymari's cotton was purchased from merchants established in Matamoras. (Rec., pp. 40, 41.) But a glance at these de-

positions will show that they are not sufficient for the purpose for which they were taken. The vendors are not produced, nor is any person who had personal knowledge of the transaction of purchase examined. The testimony of two persons who appear to have been entire strangers to the transaction is all that is adduced. This testimony even does not negative the view that the alleged vendors, Gomila & Co., were not as well rebel enemies, established at Brownsville, as neutral merchants of Matamoras.

This testimony should not be permitted to outweigh the established fact that a portion of this cargo was taken in at Brazos Santiago. (See the testimony of the seamen, Rec., pp. 6 and 8.) Who owned this part of the cotton? All the cotton on board is embraced by the three claims. The eleven bales sworn to have been laden at Brazos must be embraced by one of the three bills of lading covering the cargo. That part, at least, never even went through Matamoras; and yet it is attempted to be shown that the entire cargo came directly from Mexico. This single fact is sufficient to overthrow the whole fabric of the case of these claimants. The seamen cannot be mistaken; that cargo *was* laden on board at Brazos. Two such witnesses are worth a whole theatre of such men, rebel tradesmen and Matamoras cotton smugglers, as are produced by these claimants to swear their case through the prize courts. It is further shown that 133 bales of the cotton shipped on account of Caymari were brought from the "*Brazos warehouse.*" (See the receipts, Rec., pp. 13, 14.) It was attempted to be shown that there is no such warehouse as the "*Brazos warehouse;*" but the evidence on this point fell far short of the mark. (See p. 57.) The court will believe

that the warehouse referred to, from which 133 bales of the cotton claimed by B. Caymari proceeded, and were brought to the mouth of the Rio Grande, is located at Brazos, where the schooner had discharged her outward cargo and took on board a portion of this return cargo.

4. If, therefore, the evidence, affirmative and negative, in this record, is deemed sufficient to show that the cotton embraced by the claim of Caymari was obtained in the course of trade with rebel enemies in Texas, the property must be condemned under the rule of the *jus gentium* so clearly and elaborately expounded by this court in the cases of *The Rapid* and *The Sally*, 8 Cranch, 162, 384.

THIRD POINT.

The thirty-eight bales of cotton which are the subject of the claim of JULES ALDIGE must be condemned, if owned as claimant, under the proof in this record, on the same ground as that just stated in the case of the claim of B. Caymari.

This claimant also had the benefit of further proof. He examined two witnesses at Matamoras. One of them swears he knows nothing about these 38 bales. (Rec., p. 47.) The other swears to having derived his knowledge (such as it is) of this cotton from the statements of the claimant. He expressly says, however, that he does not know of *whom or where* Aldige bought this cotton. (Rec., p. 47.) One of the witnesses also swears that Aldige was "*formerly engaged in business in New Orleans.*" It does not appear whether or not he had dissolved his connection and relations with that city, at the time of this transaction,

in such a manner as to entitle him to be considered as a merchant of Mexico. The proof on this point is totally defective. It is a vital point of the claimant's case. He was bound to show affirmatively, when he undertook to adduce further proof, that he was, in fact and law, at the time of the purchase, a neutral person entitled to trade with the enemies of the country of his former domicile.

The rule is well settled that if, upon further proof ordered, the proof is *defective*, it is deemed conclusive evidence of hostile intent, or of such misconduct as authorizes condemnation. (1 Wheaton, Appendix, p. 505; 3 Phillimore, 601.)

FOURTH POINT.

Under any circumstances the *eleven bales* of this cargo laden at BRAZOS SANTIAGO must be condemned for breach of the blockade of that harbor.

In the case of the PETERHOFF, this court adjudged that Brazos was embraced by the blockade of the coast of Texas, as declared by the President's proclamation of April 19, 1861, though determining that it did not include the mouth of the Rio Grande. A portion of the present cargo was shipped on board the vessel from the blockaded coast, and the vessel thereupon sailed to the place where she was captured. This was an act of breach of blockade for which the cargo referred to is clearly confiscable.

FIFTH POINT.

If the court should be of opinion that the outward cargo of contraband delivered at Brazos Santiago and this return cargo of cotton were mainly of the *same*

ownership—a conclusion of fact warranted by the affirmative as well as the negative evidence in the case—the present cargo is confiscable under adjudications of the highest authority.

The district judge was clearly of opinion that this cotton "was the price of the cargo delivered at Brazos Santiago." (Rec., p. 62.) This view is a correct solution of the venture in which the Flying Scud was engaged. No other theory will account for the facts and features of the case.

If such connection existed between the cargo from Nassau and that delivered on board at Brazos and the Rio Grande, then the latter is subject to condemnation under the following English adjudications:

The Rosalie & Betty, 2 Rob., 343.
The Nancy, 3 ib., 122.
The Margaret, 1 Acton, 333.
The Santissima de Maria, 2 Acton, 92.

In the *Margaret* (1 Acton, 333) the vessel was employed in the outward voyage in the carriage of powder to the colony of the enemy. The vessel afterwards entered into a completely distinct line of commerce and performed a number of different voyages. The ship, being captured on one of these voyages, was condemned by the High Court of Appeals, as well as that portion of her cargo which belonged to the owners of the vessel. The court held that it was not even necessary when the ship was confiscable for such conduct, that the return cargo, in order to be liable to condemnation, should be part proceeds of the contraband on the former voyage.

We contend, on the authority of this case especially, that whether this cotton was or was not the price of

the outward contraband, if it was owned by the owners of the outward contraband it is confiscable as prize.

See also the further development of this doctrine in the subsequent case of the *Santissima Coracao de Maria.* (2 Acton, 92.)

SIXTH POINT.

In every aspect of it this case is one of the worst of its class which have been presented to the attention of the court, and if the property here involved escape condemnation, it must be that the prize law of England and America is inefficient and impotent to punish the most flagrant violations of belligerent rights.

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